

Taking Sides: Clashing Views in World Politics, 18/e

Stephen M. Hill

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Detailed Table of Contents

UNIT 1: Major Power Issues and Theoretical Debates

Issue: Should the United States Continue to Act as a Global Leader?
YES: Joseph Lieberman and Jon Kyl, from "Why American Leadership Still Matters," *American Enterprise Institute* (2015)
NO: Christopher Preble and William Ruger, from "The Problem with Primacy," *CATO Institute* (2017)

Joseph Lieberman and Jon Kyl, both former U.S. Senators, argue in a report for the American Enterprise Institute, a Washington, DC,-based think tank that American leadership remains critical for global security and prosperity. Though they do not discuss international relations theory explicitly, their argument is founded on the assumption that a failure to ensure American liberal "primacy" in world politics will lead to greater insecurity and conflict. Christopher Preble, vice president for Defense and Foreign Policy Studies at the CATO Institute, and William Ruger, a research fellow at the CATO Institute and vice president for Research and Policy at the Charles Koch Institute, both argue that American primacy is not only unsustainable but that it actually undermines global security by dragging the United States into unnecessary conflicts.

Issue: Was Russia's Intervention in Ukraine the Result of Western Aggression?
YES: Vladimir Putin, from "Address by President Vladimir Putin at the Conference of Russian Ambassadors and Permanent Representatives," *Permanent Mission to the Russian Federation to the European Union, Moscow* (2014)
NO: North Atlantic Treaty Organization, from "Russia's Accusations: Setting the Record Straight," *Factsheet Issued by NATO* (2014)

Vladimir Putin, President of Russia, tells a gathering of Russia's diplomats that their country's response to events in Ukraine represents a legitimate reaction to threats to ethnic Russians living in Ukraine and to Russia's national security interests. He lays the blame on Ukrainian nationalism and on a North Atlantic Treaty Organization (NATO)-led effort to bring threatening forces ever closer to Russia's borders. A report issued by NATO asserts that it is Russia's aggression against Ukraine that has led to the crisis. NATO further argues that to divert attention away from its actions, Russia has leveled a series of false accusations against NATO.

Issue: Is China Being the Aggressor in the Issue of the Disputed Island in the Pacific Ocean?
YES: Chuck Hagel, from "The United States' Contribution to Regional Stability," *The International Institute for Strategic Studies* (2014)
NO: Wang Guanzhong, from "Major Power Perspectives on Peace and Security in the Asia-Pacific," *The International Institute for Strategic Studies* (2014)

Chuck Hagel, the U.S. secretary of defense, tells delegates gathered in Singapore in 2014 at the Shangri La Dialogue that China has undertaken destabilizing, unilateral actions in aggressively asserting its claims to significant areas in the South China Sea and the East China Sea and to many of the islands in them, the resources in and under those areas, and even to maritime and aviation transit through and over them. The Shangri La Dialogue is a series of conferences that has been held annually since 2002 and is sponsored by the International Institute for Strategic Studies (IISS), a private research and advocacy organization headquartered in London. The conference brings together representatives of the defense ministries of countries located in or bordering on the Pacific Ocean and also several European countries including France, Germany, and Great Britain to discuss security in the Pacific region. Wang Guanzhong, a lieutenant general and deputy chief in staff of People's Liberation Army, China, responds to Secretary of Defense Hagel's speech and a similar, if less blunt, speech by Prime Minister Shinzo Abe of Japan by condemning them for containing unwarranted accusations against China and thereby provoking and challenging China. General Wang asserts that China is ready to cooperate with other countries in the greater Pacific region to promote regional and global peace and development.

Issue: Is Turkey Becoming Authoritarian?
YES: David L. Phillips, from "Testimony during Hearings on 'Turkey's Democracy under Challenge'," *U.S. House of Representatives Committee on Foreign Affairs* (2017)
NO: Ali Cinar, from "Testimony during Hearings on 'Turkey's Democracy under Challenge'," *U.S. House of Representatives Committee on Foreign Affairs* (2017)

David L. Phillips is Director of the Program on Peace-building and Rights at Columbia University's Institute for the Study of Human Rights. He has also worked as a senior adviser to the United Nations Secretariat and as a foreign affairs expert and a senior adviser to the U.S. Department of State. In his testimony, given just before the country's constitutional referendum in April 2017, Phillips argues that President Erdogan has been taking Turkey down an increasingly authoritarian path, one that has left it as an outlier in the liberal democratic NATO community. Ali Cinar is a president of the Turkish Heritage Organization, a U.S. based nonprofit organization that promotes discussion and dialogue around Turkey's role in the international community and issues of importance in the U.S.-Turkish relationship. He believes that fears of a creeping authoritarianism are unwarranted and borne from the failure to appreciate the unprecedented domestic and transnational threats the country has faced over the past few years. In this context, the constitutional referendum did not represent the "death of Turkey's nascent democracy" as Phillips characterizes it, but rather its consolidation.

Issue: Is Chaos in the Middle East Largely the Fault of U.S. Policy?
YES: Peter Van Buren, from "How the U.S. Wrecked the Middle East," *The American Conservative* (2015)
NO: Philip Gordon, from "The Middle East Is Falling Apart," *Politico Magazine* (2015)

Peter Van Buren is an author and former U.S Foreign Service Officer who spent a year in Iraq leading two Provincial Reconstruction Teams. In this article, he argues that the U.S. invasion of Iraq in 2003 opened a Pandora's Box of regional problems with global consequences, which it is still trying to contain and resolve. Philip Gordon, a senior fellow at the Council on Foreign Relations and former Special Assistant to the President and White House Coordinator for the Middle East, North Africa, and the Gulf Region, believes that such analysis is a reflection of the American tendency to assume that all global events are in some way a product of their actions or inactions. Rather, Gordon suggests that the turmoil affecting the Middle East is the product of a number of trends that are indigenous to the region itself. This realization has important consequences for how the United States should seek to deal with the region.

UNIT 2: Economic Issues

Issue: Is Free Trade Helping to End World Poverty?
YES: The World Bank Group and World Trade Organization Staff, from "The Role of Free Trade in Ending Poverty," *World Trade Organization* (2015)
NO: Ian Fletcher, from "Free Trade Isn't Helping World Poverty," *Huffington Post* (2011)

In their report, The World Bank Group and World Trade Organization staff make the case for the continued success of free trade in helping to end global poverty. They thus conclude that much deeper economic integration and lowering of trade barriers must occur if we are to reach the goal of having less than 3 percent of the world's population living in poverty by 2030. Ian Fletcher, who sits on the advisory board of the Coalition for a Prosperous America, an organization dedicated to reforming American trade policies, argues to the contrary that free trade does not work as a global antipoverty strategy. Rather he suggests that the greatest strides in poverty reduction have occurred in those states that have adopted mercantilist policies and that free trade is also leading to greater inequality between rich and poor states.

Issue: Should the Export–Import Bank Be Eliminated?
YES: Veronique De Rugy, from "Examining Reauthorization of the Export–Import Bank: Corporate Necessity or Corporate Welfare?" *U.S. House of Representatives* (2014)
NO: Fred P. Hochberg, from "Examining Reauthorization of the Export–Import Bank: Corporate Necessity or Corporate Welfare?" *U.S. House of Representatives* (2014)

Veronique De Rugy, a senior research fellow at the Mercatus Center at George Mason University, concludes that a close examination of the Export–Import Bank's activities and outcomes shows that it does not meet the standards of its own criteria, and the facts do not support these criteria for the continued activities of the Bank. Fred P. Hochberg, chairman and president of the Export–Import Bank of the United States, proclaims that he is proud of the work the bank's more than 400 employees do to empower U.S. companies and support American job growth, says the reforms are addressing some of the criticisms of the bank, and argues that the bank deserves to have its charge renewed for five years.

UNIT 3: Armaments, War, and Terrorism Issues

Issue: Should the United States Ratify the Comprehensive Nuclear Test Ban Treaty?
YES: Ellen Tauscher, from "The Case for the Comprehensive Nuclear Test Ban Treaty," *U.S. Department of State* (2011)
NO: Baker Spring, from "U.S. Should Reject Ratification of the Comprehensive Test Ban Treaty," *Heritage Foundation Web Memo* (2011)

U.S. Under Secretary of State for Arms Control and International Security, Ellen Tauscher, expresses the view that the United States will lose nothing and gains much by ratifying the Comprehensive Test Ban Treaty. Baker Spring, the F. M. Kirby Research Fellow in National Security Policy at The Heritage Foundation, asserts that the problems with the Comprehensive Test Ban Treaty that led the U.S. Senate to reject it in 1999 have, if anything, worsened in the intervening years.

Issue: Is the Nuclear Deal with Iran Good for International Security?
YES: Barack Obama, from "Remarks by the President on the Iran Nuclear Deal," *Whitehouse.gov* (2015)
NO: Dick Cheney, from "Remarks by the Former Vice President on the Nuclear Deal with Iran and the Implications for U.S. Security," *AEI Media* (2015)

Barack Obama, in a speech given at the American University in Washington, DC, while still president of the United States, makes the case for Congress to support the Joint Comprehensive Plan of Action agreement, after it was signed by Iran, Russia, France, China, Germany, the United Kingdom, and United States in 2015. He argues that the agreement includes the most intrusive inspection regime ever negotiated, making the path to a nuclear weapon virtually impossible. He also suggests that the alternatives to the agreement are either a nuclear Iran or another war in the Middle East. Dick Cheney, former vice president of the United States, contends that the agreement is seriously flawed and that by allowing them to continue uranium enrichment and missile development, among other things, it has undermined the Non-Proliferation Treaty and emboldened the Iranian regime.

Issue: Should the U.S. Engage with North Korea over its Nuclear Weapons Program?
YES: Leon V. Sigal, from "A Deal-Maker's Chance: Why Trump Should Engage with North Korea," *Global Asia* (2017)
NO: Bruce Klingner, from "Testimony during Hearings on 'Pressuring North Korea: Evaluating Options'," *U.S. House of Representatives Committee on Foreign Affairs* (2017)

Leon V. Sigal is the director of the Northeast Asia Cooperative Security Project at the Social Science Research Council, encourages the Trump Administration to engage with the North Korean regime over its nuclear program through negotiations to achieve a comprehensive security agreement. Bruce Klingner, a senior research fellow for Northeast Asia at the Heritage Foundation, warns against premature diplomatic overtures toward North Korea, believing they are doomed to failure. Instead, in his testimony, he advises the U.S. government to impose comprehensive economic and diplomatic sanctions on the regime first, in order to force it to the negotiating table.

Issue: Can Islam Be Blamed for Inciting Terrorism?
YES: Ayaan Hersi Ali, from "Islam Is a Religion of Violence," *Foreign Policy* (2015)
NO: Manal Omar, from "Islam Is a Religion of Peace," *Foreign Policy* (2015)

Ayaan Hersi Ali, a research fellow at the Hoover Institution, Stanford University and a fellow with the Future of Diplomacy Project at the Belfer Center for Science and International Affairs at The Harvard Kennedy School, criticizes the failure of "moderate Muslims" to acknowledge the religious justification for violence, gender inequality, and religious discrimination contained within Islamic doctrine. Ali believes that, until they do so, it will be impossible to defeat the spread of hate and intolerance that motivates violent extremists. Manal Omar, an associate vice president for the Middle East and Africa Center at the United States Institute of Peace, criticizes such analysis for oversimplifying the true causes of terrorism, which she believes are rooted in the complex political and social circumstance in which terrorists are forged.

Issue: Should the U.S. Withdraw Its Military from Afghanistan Immediately?
YES: Douglas A. Wissing, from "Trump Wants a New Afghan Surge: That's a Terrible Idea," *Politico Magazine* (2017)
NO: Luke Coffey, from "Afghanistan Has Been America's Longest War: Here's What Success Will Look Like," *Daily Signal* (2017)

Douglas A. Wissing is an author and journalist who argues that after more than 15 years of involvement, the United States is fighting a losing battle in Afghanistan. The challenges and costs of continued operations, he believes, are just too great. President Trump simply needs to recognize that fact, cut the country's losses and withdraw. Luke Coffey, Director of the Douglas and Sarah Allison Center for Foreign Policy at the Heritage Foundation, believes that those who recommend withdrawal fail to recognize the successes that have already been achieved, as well as the continued need for the U.S. to support and assist the Afghani government and security forces. President Trump thus needs to maintain U.S. support into the foreseeable future or risk a resurgence of terrorism.

Issue: Is Closing the Prison for Alleged Terrorists at the U.S. Naval Base, Guantanamo, Cuba Justified?
YES: Elisa Massimino, from "Testimony During Hearings on 'Closing Guantanamo: The National Security, Fiscal, and Human Rights Implications'," *U.S. Senate* (2013)
NO: Frank J. Gaffney, Jr., from "Testimony During Hearings on 'Closing Guantanamo: The National Security, Fiscal, and Human Rights Implications'," *U.S. Senate* (2013)

Elisa Massimino, president of Human Rights First, a U.S.-based advocacy organizations urging U.S. global leadership on human rights, tells Congress that there are tough questions to resolve regarding closing the U.S. prison at the Guantanamo Bay Naval Base, but that it is possible to close the facility with smart and sustained leadership from the president and Congress. Frank J. Gaffney, Jr., president of the Center for Security Policy, a private analysis and advocacy organization, maintains that the United States is at war with terrorism and in that struggle Guantanamo Bay is the optimal location for U.S. detention and interrogation of terrorists and associated unlawful enemy combatants.

UNIT 4: International Law and Organization Issues

Issue: Does Using Drones to Attack Terrorists Globally Violate International Law?
YES: Mary Ellen O'Connell, from "Lawful Use of Combat Drones," *U.S. House of Representatives* (2010)
NO: Michael W. Lewis, from "Examining the Legality of Unmanned Targeting," *U.S. House of Representatives* (2010)

Mary Ellen O'Connell, a research professor at the Kroc Institute, University of Notre Dame, and the Robert and Marion Short Professor of Law at the School of Law, University of Notre Dame, tells a congressional committee that the United States is failing more often than not to follow the most important single rule governing drones: restricting their use to the battlefield. Michael W. Lewis, a professor of law at Ohio Northern University's Pettit College of Law, disagrees, contending that there is nothing inherently illegal about using drones to target specific terrorists or groups of terrorists on or away from the battlefield.

Issue: Is the UN a Worthwhile Organization?
YES: Susan E. Rice, from "Six Reasons the United Nations Is Indispensable," *Speech or Remarks* (2011)
NO: Bruce S. Thornton, from "The U.N.: So Bad It's Almost Beautiful," *Defining Ideas* (2012)

Susan E. Rice, U.S. ambassador to the United Nations, tells an audience that the United States is much better off—much stronger, much safer, and more secure—in a world with the United Nations than the United States would be in a world without the UN. Bruce S. Thornton, a research fellow at the Hoover Institution at Stanford University in California, writes that the United Nations is fatally flawed by not having consistent, unifying moral and political principles shared by member nations that can justify UN policies or legitimize the use of force to deter and punish aggression.

Issue: Should the United States Consider Leaving the UN Human Rights Council?
YES: Nikki Haley, from "A Place for Conscience: The Future of the United States in the Human Rights Council," *Mission of the United States of America* (2017)
NO: Ted Piccone, from "Testimony during Hearings on 'Assessing the UN Human Rights Council'," *U.S. Senate Committee on Foreign Relations* (2017)

Nikki Haley, U.S. Ambassador to the United Nations, in a presentation at the Graduate Institute of Geneva, tells her audience that the United States believes the UN Human Rights Council suffers from a "credibility deficit" due to its failure to address the worst human rights abuses (and abusers) and its tendency to concentrate unfairly on Israel. Haley thus calls for reforms, including competitive elections for new members and the removal of "Item Seven" from the Council's Agenda, which concerns Israel. Without these reforms, she suggests the United States will work around the Council—but withdrawal also appears to be an option. Ted Piccone, senior fellow in Foreign Policy at the Brookings Institution, agrees in his testimony that the Council needs reform but also argues that its successes in promoting human rights have been generally underappreciated and that disengaging from the Council will only weaken it and thus undermine the Unites States' own goal of promoting human rights.

Issue: Is U.S. Refusal to Join the International Criminal Court Justifiable?
YES: Brett Schaefer and Steven Groves, from "The U.S. Should Not Join the International Criminal Court," *The Heritage Foundation* (2009)
NO: Michael P. Scharf, from "Is a U.N. International Criminal Court in the U.S. National Interest?" Testimony before the Subcommittee on International Operations of the Committee on Foreign Relations, *U.S. Senate* (1998)

Brett Schaefer, the Jay Kingham fellow in international regulatory affairs at the Heritage Foundation, and Steven Groves, the Bernard and Barbara Lomas fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies at the Heritage Foundation, contend that although the court's supporters have a noble purpose, there are a number of reasons to be cautious and concerned about how ratification of the Rome Statute would affect U.S. sovereignty and how ICC action could affect politically precarious situations around the world. Michael P. Scharf, a professor of law at and director of the Center for International Law and Policy, New England School of Law, argues in testimony given just after the establishment of the ICC was finalized by the Conference at Rome and sent to the world's countries for adoption (ratification) that while the United States did not get everything it wanted in the Treaty of Rome creating the ICC, it is a worthwhile step forward toward global justice.

Issue: Should the United States Ratify the Convention to Eliminate All Forms of Discrimination Against Women?
YES: Melanne Verveer, from "Ratify the CEDAW," *U.S. Senate* (2010)
NO: Steven Groves, from "Reject CEDAW," *U.S. Senate* (2010)

Melanne Verveer, ambassador-at-large, Office of Global Women's Issues, U.S. Department of State, tells a congressional committee that the U.S. Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) because doing so would send a powerful message about the U.S. commitment to equality for women across the globe. Steven Groves, the Bernard and Barbara Lomas Fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies at the Heritage Foundation, headquartered in Washington, DC, contends that ratifying CEDAW would neither advance U.S. international interests nor enhance the rights of women in the United States.

UNIT 5: Environmental and Social Issues

Issue: Was the United States Correct to Leave the Paris Climate Accord?
YES: Donald J. Trump, from "Statement by President Trump on the Paris Climate Accord," *Whitehouse.gov* (2017)
NO: Daniel B. Baer, et al., from "Why Abandoning Paris Is a Disaster for America," *Foreign Policy* (2017)

Donald J. Trump, President of the United States, in a speech given in the Rose Garden of the White House in June 2017, provides an explanation for his decision to withdraw the United States from the Paris Climate Accord. He suggests that the Accord is both unfairly harmful to the U.S. economy and ineffective at addressing climate change. Daniel B. Baer and his coauthors, all of whom served in the Obama Administration, reject President Trump's assertions and argue that a U.S withdrawal will not only detrimental impact the world's climate, but also its own standing as a global leader.

Issue: Should the United States Deport Unauthorized and Unaccompanied Immigrant Children?
YES: Dan Coats, from "A Speech on the Floor of the U.S. Senate," *U.S. Congressional Record* (2014)
NO: Mark Seitz, from "Crisis on the Texas Border: Surge of Unaccompanied Minors," *Department of Homeland Security Strategic Plan* (2014)

Dan Coats, a U.S. Senator from Indiana, argues that allowing the flood of unaccompanied children who have arrived illegally in the United States will only encourage the dangerous practice of sending them to the United States. Mark Seitz, the Roman Catholic bishop of the Diocese of El Paso, Texas, and head of the Committee on Migration of the United States Conference of Catholic Bishops, tells a committee of Congress that a faithful adherence to the "best interest of the child" standard should govern how all undocumented immigrant children are treated. In most cases, Seitz argues the best interest of the child is to remain in the United States to avoid returning them to lives of poverty and, often, violence.

Preface

The task of editing the 18th edition of *Taking Sides: Clashing Views in World Politics* is both an honor and a privilege. It is an honor because I am inheriting a tremendous legacy established by its founding editor, John T. Rourke. As a teacher of world politics for over 20 years, I have used the *Taking Sides* text since its inception, to both inform and foster debate among the thousands of students I have taught during that time. John always ensured that the text included the most pressing issues in world politics and that each edition evolved with the times to incorporate contemporary developments. I'm sure I echo the thanks of a multitude of my teaching colleagues across the world in thanking John for helping us achieve the goals he set out in his very first edition; to encourage generations of students to recognize that "world politics is usually not a subject of absolute rights and wrongs" or "easy policy choices" and that it is therefore essential that they seek to understand all sides of the debates.

Editing this edition is also a privilege because I have a wonderful opportunity to build on the legacy I have inherited. I hope, therefore, that you will find this edition (just like world politics!) is a mixture of continuity and change. The book still contains the structure you will have come to expect: a wide range of issues in world politics debated in a "pro and con" format, with contributions by a mixture of practitioners, scholars, and noted political commentators. All of the issues are accompanied by an introduction that provides valuable historical background and political context to each debate. Every issue also concludes with an "Exploring the Issue" section that summarizes the debate, gives the reader paths for further investigation, and suggests additional resources (including Internet resources) that might be helpful.

I have also strived to maintain the reputation of the *Taking Sides* text for its contemporary relevance. Thus, over half the issues in this edition are either new or contain new selections. In making these changes I have also chosen issues and selections that not only encourage debate on policy choices but also aid in the theoretical debates of the discipline. To emphasize this I have renamed the first section "Major Power Issues and Theoretical Debates." I hope to develop this element further in future editions.

As always, for the instructors, there are tools available through the publisher for using *Taking Sides* in the classroom. A general guidebook, *Using Taking Sides in the Classroom*, which discusses methods and techniques for integrating the debate-style approach into any classroom setting, is also available. Visit www.mhhe.com/createcentral for all instructor resources.

Taking Sides: Clashing Views in World Politics is only one title in the *Taking Sides* series. If you are interested in seeing the table of contents for any of the other titles, please visit the *Taking Sides* website at www.mhhe.com/createcentral.

I hope this text and the additional resources that are provided will continue to inspire students to engage with the most pressing issues in world politics, just as the previous 17 editions have done under my predecessor. As an instructor at a Liberal Arts College I have become increasingly cognizant of the importance of making students aware of the new (transferable) skills they are developing while in our courses. Debating issues in the style of *Taking Sides* not only improves their communication skills (both speaking and listening) but requires them to continually practice perhaps the most important skill we are seeking to develop—critical thinking. Analyzing the arguments of others, weighing-up competing arguments, forming a conclusion on which argument or perspective is stronger, and reflecting on the implications of that conclusion are key elements of the critical thinking process. My hope is that students will develop these skills, along with the knowledge and sense of responsibility that will transform them into constructive global citizens with a burning desire to address the world's greatest dilemmas.

Stephen M. Hill
University of Wisconsin—Eau Claire

Editor of This Volume

STEPHEN M. HILL is a professor of Political Science in the Department of Political Science at the University of Wisconsin—Eau Claire (UWEC). He is also a director of UWEC's Center for Global Politics. He is the author of *UN Disarmament Process in Intra-State Conflict* (Palgrave-Macmillan) and co-author of *Peacekeeping and the United Nations* (Dartmouth Press). In addition, he has published several articles in a number of leading journals, including *Contemporary Security Policy, Democracy and Security, Civil Wars* and *Social Justice.*

Acknowledgment

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For my wife and son, Polly and Oliver

Academic Advisory Board Members

Members of the Academic Advisory Board are instrumental in the final selection of articles for *Taking Sides* books. Their review of the articles for content, level, and appropriateness provides critical direction to the editors and staff. We think that you will find their careful consideration reflected in this book.

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Introduction

Whenever I meet someone for the first time they tend to ask me what I "do." When I tell them I teach world politics, they invariably respond by stating "that must be interesting these days!" What is most telling about this response is that I have received the same one consistently over the past 20 years. I think this shows that there is a lot of consistency in world politics, even though each generation tends to believe that their own era is the most dangerous or compelling. Though the technology and context may change, the world is still struggling with the same core issues of violence, poverty, and injustice that have plagued it for millennia. The debates in this 18th edition of *Taking Sides* thus reflect these primary concerns, just as they have for the past 17. What are the causes of these persistent ailments and how can we best cure our world of them? To answer these questions is the challenge set before you as a student of world politics and it is one of immense responsibility!

Each of the debates in this book will ask you to consider how decisions made concerning America's role in the world, the proliferation of weapons, international trade, as well as policies on international treaties and organizations, will impact the levels of global violence, poverty, and injustice in the future. To decide how to act thus requires you to seek out the best information and to listen to all sides in the debates—and to eventually develop your own opinion on what should be done about them. This book will help you begin that process.

Although recognizing the consistency in world politics is important, it is also essential to understand some of the uniqueness of our more recent times. Though scholars continue to debate just how new the phenomenon really is, "globalization" appears to be making the world increasingly smaller and more interconnected. Exponential advances in travel and communication have made geographic distance much less important, and national economies have become increasingly interdependent as international trade has grown. New technologies have also generated new policy and ethical dilemmas, such as the use of unmanned aerial vehicles or "drones" in warfare, counterterrorism, and surveillance. Many states are troubled by the prospect of transnational terrorist groups gaining access to nuclear, biological, or chemical weapons. And there is no better example of the interdependence of our modern world than the increasing effects of climate change, which may threaten human extinction regardless of who (or which countries) emitted the greatest levels of pollution. This book will also help you grapple with the dilemmas inherent in these more modern problems.

Perhaps a final dilemma that is unique to our current age is the adverse effect of the proliferation of cable TV channels, internet sites, social media, and radio shows. Though they can provide a wonderfully rich array of sources, the temptation is great to listen only to those commentators and political pundits who reinforce our preexisting beliefs. This behavior generates an "echo chamber" effect, in which the audience is never challenged with dissenting viewpoints. In this environment, partisan attitudes are reinforced and the "opposing side" tends to be viewed as stupid, nefarious, or unpatriotic. Achieving compromise or common ground in such an environment becomes increasingly difficult, making mutually acceptable policy solutions harder to find and implement. This book is testament to the need to counteract this phenomenon. As in previous editions, it is dedicated to the principle of rational discourse and tolerant debate.

Nevertheless, the reader will be struck at times by the passion of the authors. This is to be expected, as they are experts in their respective topics and are confident in their approaches and prescriptions. Hopefully, you will be impressed at the cogent arguments they make and they will challenge you to think more deeply about the issue. Resist the temptation to dismiss the authors out of hand just because of their political affiliations or their general positions on the issues. You may not change your mind, but at the very least you will have a better appreciation for why you hold your current views. Lastly, though it is a difficult challenge to form an opinion on which side of the debate you believe is stronger on each of the complex issues covered in this book, it is important that you do so. Staying neutral on these issues is not an option! Remember the ominous words of the former Emperor of Ethiopia, Haile Selassie (1892–1975), who beseeched the League of Nations (the predecessor of the United Nations) in 1935 after the Italian invasion of his country, not to stay neutral; "Throughout history it has been the inaction of those who could have acted, the indifference of those who should have known better, the silence of the voice of justice when it mattered most that made it possible for evil to triumph."

The essential point is: Become informed. Then do something! Write letters to policy makers, donate money to causes you support, work for political candidates with whom you agree, join an activist organization, or any of the many other things that you can do to make a positive difference. Hopefully, that journey begins here!

Approaches to Studying World Politics

As will become evident as you read this volume, there are many approaches to the study of world politics. Some political scientists and most practitioners specialize in substantive topics, and this reader is organized along topical lines.

Unit 1 (Issues 1–5) focuses on regional and country-specific issues, including the role of the United States in the international system, the reasons for Russia's intervention in Ukraine, the contribution of China to the heightened insecurity affecting the South-China Sea, whether Turkey is headed toward authoritarianism and finally, the US responsibility for fostering instability in the Middle East. This section will also encourage the reader to begin to think theoretically about the nature of world politics, although all the debates in the text are relevant to that aim.

Unit 2 (Issues 6 and 7) deals with issues concerning the international economy and international trade. Since the Great Depression of the 1930s and the Second World War (1939–1945), which many believe resulted from it, the major powers have pushed for ever greater free trade and economic interdependence. In recent years, however, there has been a "populist" backlash to these policies in the populations of the wealthiest states, based on the feeling that many of the poorest members of society have been left behind by "globalization." These populist backlashes have been most evident in the vote of the United Kingdom to leave the European Union in June 2016 and the election of President Donald Trump five months later, who ran on a populist message of the "forgotten men and women" of America. These events have brought sharp relief to an old and reoccurring question in world politics; should states commit to free trade to reduce poverty and lessen the chance of war, or is it better that they adopt more "economic nationalist" policies that will allow them to prosper in a competitive and exploitative international system? Both debates in this section, the first concerning global poverty and the second concerning whether the United States should eliminate its Export-Import Bank, are integral to answering this question.

Unit 3 (Issues 8–13) address issues of armaments, war, and terrorism. The first three issues concern the proliferation of nuclear weapons. The first asks whether the United States should ratify the Comprehensive Test-Ban Treaty, while the following issue debates whether the Joint Comprehensive Plan of Action agreement, signed in 2015, is the best means to prevent the proliferation of nuclear weapons to Iran. The third issue concerns the question of how the United States can best prevent the further proliferation of nuclear weapons (and the ballistic missiles that carry them) in North Korea. Since the election of President Trump, the threats and rhetoric between Washington and Pyongyang have escalated to unprecedented levels, as North Korea continues to test ever more powerful weapons and longer-range missiles that will allow it to hit the US mainland. The Trump administration has even threatened to cut off trade with countries doing business with North Korea. Is this approach likely to be more successful than that of his predecessors? This debate will help you decide.

The remaining three debates in Unit 3 concern the nature and effects of the "war on terrorism" launched by the George W. Bush administration after the attacks of 9/11. Though George W. Bush always argued that the religion of Islam was not to blame for the terrorist attacks, President Obama received heavy criticism throughout his tenure from pundits who argued that his unwillingness to acknowledge that the primary motivation for the attacks (and those that have followed) lay in Islamic scripture itself, meant his administration was unable to deal with the problem effectively. This was manifest in the constant calls for him to name it "radical Islamic terrorism," a demand that became a central pillar of then candidate Trump's election campaign. The first issue in this unit goes to the heart of the debate and asks whether there are any grounds for suggesting that Islamic scripture is a cause of the terrorism that we see from groups like Al Qaeda and the Islamic State.

The fifth and sixth debates in Unit 3 also grapple with difficult policy choices on legacies of the "war on terrorism." The first concerns whether to end the war in Afghanistan, which the United States has been fighting since it first intervened in late 2001. It is now the longest war in US history. Did intervening in Afghanistan prevent further terrorist attacks? Does the United States need to stay involved to prevent the Afghan government and security forces from collapsing? President Trump announced a new strategy in August 2017, in which he stated that the United States will not withdraw precipitously or announce a date of withdrawal, which were mistakes he thought President Obama had made in Iraq and Afghanistan, respectively. However, he did not declare the number of American troops that would be deployed nor

what "benchmarks," if any, would be used to measure their success. Do you agree with this strategy?

The last debate on terrorism concerns what to do with captured terrorists who continue to pose a threat to the United States and its allies. Though President Obama signed an Executive Order in 2009 to close the prison camp on the island of Cuba, he was only able to downsize it to the final 41 detainees that remained at the time he left office. Opposition to its closure came from pundits and politicians who argued that the camp remains an essential tool in the US fight against terrorism. The Trump administration is allegedly considering sending new detainees there—in particular, members of the Islamic State captured in Syria and Iraq. Do you agree with this apparent reversal of policy, or do you believe the camp's reputation undermines the legitimacy of the United States in its fight against terrorism, as the Obama administration has argued?

Unit 4 (Issues 14–18) addresses controversies in international law and organizations. The first issue continues the debates on the "war on terrorism" begun in Unit 3. This time it concerns whether the use of drones to assassinate terrorists globally violates international law. The two debates that follow cover whether the United Nations and its Human Rights Council are fundamentally flawed organizations, or whether they are flawed, but vital, organizations for achieving US foreign policy goals. The last two issues in this Unit debate whether the United States should ratify the Convention on the Elimination of All Forms of Discrimination Against Women and join the International Criminal Court, the first international criminal court to try individuals for crimes against humanity, genocide, war crimes, and crimes of aggression. The five debates in this Unit will compel you to decide what role, if any, international law and organizations can play in affecting the behavior of states, both domestically and in their foreign policies.

Unit 5, the last unit of the text, concerns environmental and social issues. In August 2017, the Trump administration notified the United Nations of its intention to withdraw from the Paris Climate Accord, which the previous administration had signed two years earlier. To many, the Paris Accord is the international community's last chance to avert a global environmental catastrophe caused by the unrestrained greenhouse gas emissions of the world's richest states. President Trump, on the other hand, believes the treaty to be ineffective at combating climate change and unfairly harmful to the US economy. Who do you agree with?

The final issue of the text deals with the on-going human tragedy concerning unaccompanied immigrant children entering the United States. As the introduction to the issue will highlight, nearly 60,000 children, mostly from Central America, have crossed the US-Mexican border in 2017. This flow shows little sign of ebbing, and some argue that only deportation will deter future parents from sending their children on such a dangerous journey. However, they remain young children, many of whom have escaped harrowing circumstances to seek a better life. Can we really send them back to lives of poverty and violence? What is the ethical choice in this situation?

Though topical groupings is great way to gain an understanding of specific issues, countries, and regions, another way for students and practitioners to approach their subject is to think theoretically about it—in essence, to try to look at the larger picture and ask why states behave as they do across all of these issues and regions. It is to this approach we now turn.

Theories of World Politics

Imagine that you are campaigning to become president or prime minister of your country. You are about to conduct a televised debate with your political opponents on foreign policy and to do well you will have to formulate positions on *all* of the issues covered in this text. To be persuasive, you will have to convince the audience that you can make sense of all of these different issues and the factors that influence them. Is it really possible? The world is such a large place, full of different states, cultures, and organizations! Of all the historical and contemporary information available to you, how can you identify what is important to know and what is superfluous? To achieve this we must think theoretically.

A theory is essentially a generalization that seeks to explain how two or more phenomena or events in world politics are connected. For example, rather than asking whether individual countries like Iran should be prevented from gaining a nuclear weapon, a theory would ask why states like Iran, North Korea, Israel, India, Pakistan, and Israel all pursue them. In other words, to fully understand why one state might want them, we will have to investigate why so many other states want them too. Once we have identified this common reason we will also be better able to explain why the United States, China, Russia, France, and the United Kingdom all find it hard to relinquish them. Similarly, while it is important to investigate why individual wars begin, a theory will ask whether there are common reasons for why states go to war with each other. For example, perhaps World War I and World War II both began for a common reason: the failure to maintain the balance of power, or the aggression of undemocratic states.

Theories of world politics thus act like a highlighter pen through history—they help us identify the information that is important. Or to put it another way, theories act like a relief map, showing us important features of world politics and how they are connected. For example, to use the theories proposed in the case of WWI and WWII, one theory would focus your attention on the connection between the balance of power and the occurrence of war, while the second would emphasize the connection of dictatorships to war. If we can explain why a phenomenon reoccurs in this way, we can use that information to help us avoid it in the future (in the case of war and poverty) or bring it about (in the case of peace and prosperity). Our challenge as students of world politics is thus to test these theories against history to try to gauge which one best explains world politics in general.

Although there are many such theories, two of the oldest are Realism and Liberalism. As this in an introductory text, it will provide an introduction to these theories in the hope that once the reader appreciates the importance of theorizing they will seek out further theories to test them against.

Realism traces its origins back to the Ancient Greek historian, Thucydides, who sought an explanation of why the two most powerful states in Ancient Greece, Athens and Sparta, went to war with each other. Although the term Realism was not coined until the 1930s, scholars and politicians like Thucydides, Niccolo Machiavelli, and Thomas Hobbes tend to be labeled as Realists because their explanations for human and state behavior reflect the thinking of modern Realist international relations theorists. Realists concentrate on the behavior of states because they are the most powerful actors in world politics. They refer to the small group of most powerful states as "Great-Powers." Realists believe world politics is essentially a continuous competition for power between these most powerful states. For this reason the theory is also known as "power politics." Realists tend to dismiss the effects of international law and organizations on the Great Powers. Instead, they see both of these institutions as tools used by the Great Powers to dominate the weak. For example, Realists are not surprised that the United States refuses to ratify the Comprehensive Test Ban Treaty, or join the International Criminal Court, although it is quite happy to punish weaker states for attempting to acquire nuclear weapons and try state leaders for crimes when they are deemed to be "enemies" of the United States itself. While differences exist among Realists, the majority argue that the most stable international system (i.e., the one least likely to experience Great Power war) is one in which there is a balance of power.

Liberalism is a more modern theory dating back primarily to the enlightenment. Liberals are more optimistic than their Realist counterparts because they believe states can escape the unending cycle of Great Power competition described by Realists through the adoption of the Kantian Triangle (named after the German philosopher, Immanuel Kant; Russett 2010, 15). The Triangle is composed of three phenomena that Liberals believe are working together to transform world politics. The first is the effects of democracy. Liberals believe in the Democratic Peace Thesis, which argues that democracies hardly ever go to war with each other. The spread of democracy is thus making the world more peaceful. The second phenomenon in the Triangle is economic interdependence. Liberals believe that increased commerce, just like democracy, generates peaceful relationships. States that are mutually dependent on one another for their future economic well-being are much less likely to go to war with one other. For example, Liberals will point to the tendency of the United States and China to avoid any conflict that might endanger their enormous mutually beneficial economic relationship. The third phenomenon is international law and organizations. Liberals argue that these international institutions can help states cooperate in conditions of high insecurity and also encourage better future behavior by helping to spread new norms and values concerning such things as human rights and environmental protection.

Hopefully, as you read through each of the issues you will begin to see how these theoretical "lenses" can help explain why states behave as they do and why cooperation may or may not be achieved in areas of world politics, like nuclear weapons proliferation, human rights, and environmental protection. You can begin to identify arguments as either Liberal or Realist and maybe at times identify the author of a reading as reflecting their theoretical assumptions. This will help you eventually decide which theory you believe provides the most accurate explanation for world politics. You can then utilize it to prepare for your up-coming election night debate!

Levels of Analysis

Although theorists of world politics disagree fundamentally on how to explain world politics, they do share a tendency to explain state behavior using one or more of three "levels of analysis": the international system; the state; and the individual.

The most macroscopic view is the system-level analysis. This is a top-down approach that maintains that world factors virtually compel countries to follow certain

foreign policies. Governing factors include the number of powerful actors, geographic relationships, economic needs, and technology. System analysts hold that a country's internal political system and its leaders do not have a major impact on policy. As such, political scientists who work from this perspective are interested in exploring the governing factors, how they cause policy, and how and why systems change.

One key factor in how a system works is the number of major powers (or poles) in it. Prior to World War II, the world had a multipolar (four or more major powers) system, with Great Britain, Germany, Japan, the Soviet Union, and the United States as its poles. After the end of World War II, the world was structured as a bipolar system, dominated by the United States and the Soviet Union. Furthermore, each superpower was supported by a tightly organized and dependent group of allies. For a variety of reasons, including changing economics and the nuclear standoff, the bipolar system has faded. Some political scientists argue that the bipolar system is being replaced by a multipolar system. In such a configuration, those who favor balance-of-power politics maintain that it is unwise to ignore power considerations. Is it possible that the future holds a tripolar system? What the polar future brings will be based in part on the willingness and capability of the United States to play the role of the "indispensable country," the most powerful and globally engaged country. The policies and capabilities of Russia and China will also play a key role in shaping the future's polar structure. It may also be that other powers, a politically united Europe, an emerging India, a revitalized and rearmed Japan, or some rising power(s) could create a multipolar system, akin to what existed prior to World War II.

System-level analysis also deals with global actors and issues. World forces are evident in such issues as the viability of the UN, how far and on what topics the role of international law should increase. The nuclear age has also affected the operation of the international system, as has technology, such as rapid global communications, global ideas such as human rights, and worldwide phenomena such as global warming.

State-level analysis is the middle and most common level of analysis. Social scientists who study world politics from this perspective focus on how countries, singly or comparatively, make foreign policy. In other words, this perspective is concerned with internal political dynamics, such as the level of democracy that exists; the impact of state bureaucracies; the role of interest groups; and the effect of public opinion. This level of analysis is very much in evidence in such issues as the political barriers within the United States, and particularly in the U.S. Senate, to U.S. ratification of the Comprehensive (Nuclear) Test Ban Treaty, the Convention to Eliminate All Forms of Discrimination Against Women, and the Treaty of Rome creating the ICC. Also an illustration of state-level analysis is the struggle in the United States over whether to adopt unilateral restrictions on the emission of greenhouse gases between a determined President Obama and a reluctant Congress.

People as individuals also help shape world politics. The focus on individual-level analysis ranges from an analysis of top decision makers, whether in the political or economic realm of world politics, to discussions of how human nature affects the world we see around us.

Perceptions versus Reality

In addition to addressing the general changes in the world system outlined above, the debates in this reader explore the controversies that exist over many of the fundamental issues that face the world. One key to these debates is the differing perceptions that protagonists bring to them. There may be a reality in world politics, but very often that reality is obscured. Many observers, for example, are alarmed by the seeming rise in radical actions by Islamic fundamentalists. However, the image of Islamic radicalism is not a fact but a perception, perhaps correct, perhaps not. In cases such as this, though, it is often the perception, not the reality that is more important because policy is formulated on what decision makers think, not necessarily on what is. Thus, perception becomes the operating guide, or operational reality, whether it is true or not. Perceptions result from many factors. One factor is the information that decision makers receive. For a variety of reasons, the facts and analyses that are given to leaders are often inaccurate or represent only part of the picture.

A related aspect of perception is the tendency to see oneself differently than some others do. Specifically, the tendency is to see oneself as benevolent and to perceive rivals as sinister. Americans, Western Europeans, and other increasingly see Russia under President Putin as a growing menace. It is difficult to look at events through the eyes of the Russians and see how the expansion of the European Union and North Atlantic Treaty Organization to countries on or near Russia's borders might seem threatening to Russians. Understanding the Russian viewpoint does not necessarily mean agreeing with Russia's action, but it will help in shaping a wise response. As Chinese strategist Sun Tzu advised sagely some 2,700 years ago in *The Art of War*, "know your enemy."

Conclusion

Having discussed many of the various dimensions and approaches to the study of world politics, it is incumbent on this editor to advice against your becoming too structured by them. Issues of focus and approach are important both to studying world politics and to understanding how others analyze it. However, they are also partially pedagogical. In the final analysis, world politics is a highly interrelated, perhaps seamless, subject. No one level of analysis, for instance, can fully explain the events on the world stage. Instead, using each of the levels to analyze events and trends will bring the greatest understanding.

Similarly, the Realist–Liberal division is less precise in practice than it may appear. As some of the debates will demonstrate, each side often stresses its own standards of morality. Which is more moral: defeating a dictatorship or sparing the sword and saving lives that would almost inevitably be lost in the dictator's overthrow? Furthermore, Realists usually do not reject moral considerations. Rather, they contend that morality is but one of the factors that a country's decision makers must consider. Realists are also apt to argue that standards of morality differ when dealing with a country as opposed to an individual. By the same token, most idealists do not completely ignore the often dangerous nature of the world. Nor do they argue that a country must totally sacrifice its short-term interests to promote the betterment of the current and future world. Thus, Realism and Liberalism can be seen most accurately as the ends of a continuum—with most political scientists and practitioners falling somewhere in between, rather than at the extremes. The best advice, then, is this: think broadly about world politics!

Stephen M. Hill
University of Wisconsin—Eau Claire



Unit 1

UNIT

Major Power Issues and Theoretical Debates

Not all actors in world politics are equal, at least not in their impact on the international system. Theories of world politics differ on the emphasis they place on different actors. Realists concentrate on the Great Powers and how they compete for power with each other. For most Realists, the stability of the international system is dependent on the maintenance of the balance of power in bipolar, tripolar, or multipolar systems. Some Realists argue that the world is most stable when a hegemon possesses an overwhelming disparity in power over the other Great Powers in the system. Liberals focus on the Great Powers too, but are also sensitive to how democracy, international organizations, and economic interdependence affect their behavior.

This unit is thus unashamedly dedicated to issues affecting the most powerful states in the international system. It includes debates on U.S. leadership and intervention, Russian aggression, Chinese revanchism, and Turkish authoritarianism. Through these debates you will hopefully be able to assess whether the Realist or Liberal perspectives on world politics provides the best explanation for this broad range of phenomena and recommend policies for how major powers can avoid conflict and promote stability.

Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Should the United States Continue to Act as a Global Leader?

YES: Joseph Lieberman and Jon Kyl, from "Why American Leadership Still Matters," *American Enterprise Institute* (2015)

NO: Christopher Preble and William Ruger, from "The Problem with Primacy," *CATO Institute* (2017)

Learning Outcomes

After reading this issue, you will be able to:

- Explain what "primacy" means in world politics.
- Describe the post-WWII tradition of primacy in U.S. foreign policy.
- Explain how primacy is thought to provide global peace and security.
- Explain the costs of U.S. primacy and the arguments against it.

ISSUE SUMMARY

YES: Joseph Lieberman and Jon Kyl, both former U.S. Senators, argue in a report for the American Enterprise Institute, a Washington, DC,-based think tank, that American leadership remains critical for global security and prosperity. Though they do not discuss international relations theory explicitly, their argument is founded on the assumption that a failure to ensure American liberal "primacy" in world politics will lead to greater insecurity and conflict.

NO: Christopher Preble, vice president for Defense and Foreign Policy Studies at the CATO Institute, and William Ruger, a research fellow at the CATO Institute and the vice president for Research and Policy at the Charles Koch Institute, both argue that American primacy is not only unsustainable, but that it actually undermines global security by dragging the United States into unnecessary conflicts.

The emergence of the United States as a world power began in the late 1800s. Rapid industrialization was one factor. By 1900, for example, U.S. steel production was equal to that of the British and French combined. A rapidly growing population, largely due to high immigration, also added to U.S. power, with the U.S. population in 1890 equal to the combined populations of Great Britain and France. A third factor, the willingness of Americans to be involved in world affairs, also began to change. One indicator of declining isolation was the involvement of the United States in the Spanish–American War, World Wars I and II, and a range of more minor conflicts after that. Having decided that the isolationist tendencies the United States had demonstrated during the 1930s had allowed the rise of antidemocratic forces in Germany, Italy, and Japan to emerge and wreak havoc on the world, President Roosevelt had already begun to lay the grounds for a new world order before WWII had ended. This new order was consolidated by President Truman and it was predicated on the creation of international organizations like the United Nations that could provide effective collective

security, and institutions that could promote free trade and development, like the World Bank, International Monetary Fund, and General Agreement on Tariff and Trade. Together, these institutions could protect states from aggression and improve the economic well-being of their populations, thereby helping to protect and promote democracy.

However, the sole superpower status that the United States had enjoyed in the immediate postwar period was to soon change, with the emergence of the Soviet Union as a rival superpower. While the United States had rapidly demobilized most of its army after 1945, the Soviets had maintained an immense ground force, one that continued to threaten Western Europe. Soviet power became even more potent when they tested their first nuclear device in 1949.

Over the next several decades, the United States and Soviet Union competed for power and influence around the world, without directly confronting one another on the battlefield. For this reason, this era is known as the Cold War. With the rise of the Soviet Union, the nature of the international system had transformed from unipolar to bipolar. Then unexpectedly, and for reasons that are still debated, the communist regimes in Eastern Europe began to collapse, followed by the Soviet Union itself in 1991. Just a year before its collapse, amid the decay of Soviet power, analyst Charles Krauthammer had heralded the coming of a "unipolar moment" with the United States at "the center of world power" as "the unchallenged superpower." He was correct, and in 1992, the United States once again, as had occurred in the mid-to-late 1940s, stood alone as the world's only superpower. His argument was essentially that America should seize the opportunity presented by this "unipolar moment" and use its primacy to promote democracy, free markets, and human rights to those parts of the world that had not yet adopted them. Theoretically, Krauthammer's argument rested on the Liberal assumption that democracy, free trade, and international institutions will help create a more peaceful world. However, in this more "muscular" Liberal variant, the argument was that these collective goods could only be provided by a "benign hegemon" that was willing to pay the price to provide them. As the United States was the only state with the military and economic power to adopt a policy of primacy, and therefore the only state that could provide these collective goods, there was also a moral obligation for it to do so. Obviously, promoting global peace and prosperity was not only in the interests of the international community, it was also in America's self-interest, as it would also gain from living in such a peaceful and prosperous world.

When George W. Bush campaigned for the presidency in 2000 he did so advocating for a "humble foreign policy" that renounced nation-building. In fact, he criticized the Clinton–Gore administration for being too interventionist. However, after the 9/11 attacks, his foreign policy was to become associated with the "neoconservatives" who called on him to use U.S. primacy to conduct a "war on terror" that centered around spreading democracy through regime change to countries like Afghanistan and Iraq. The neoconservatives hoped that other states, like Iran, Libya, and North Korea, would begin to bandwagon (rather than balance) once they saw the immense power of the Unites States in action. Although initially this approach appeared to be effective, the United States became bogged down in two simultaneous wars of occupation that severely stretched the U.S. military and economy (and which continue to do so).

Realists of world politics criticized much of the Bush administration's action in its "war on terror." They argued that using U.S. power to conduct regime change and threaten states across the globe would only weaken the U.S. military and economy and encourage other states to balance against it. They felt vindicated, at least theoretically, when the wars in Iraq and Afghanistan turned into quagmires, and states like North Korea and Iran began to seek nuclear weapons as a deterrent against U.S. intervention. Issue 5 of this text debates whether the chaos we are witnessing in the Middle East today is the fault of these types of interventions. Realists also believe that the power dynamics of world politics will eventually lead to the rise of Great-Powers, like China and Russia, who will seek to balance the United States.

The articles in this issue mirror this theoretical discussion. Joseph Lieberman and Jon Kyl both believe that the world is a safer place when the United States adopts primacy to lead the world in promoting democracy, free trade, and international law. These former U.S. Senators are afraid that the heavy burden that primacy places on American taxpayers and soldiers will lead them to retreat from this role, just as the United States did in the 1930s—with terrible consequences. Interestingly, in the note he left for his successor on Inaugural Day, President Obama wrote that American leadership was indispensable and that it was up to the United States "through action and example, to sustain the international order that's expanded steadily since the end of the Cold War, and upon which our own wealth and safety depend." It appears that President Obama is fearful that President Trump's "America First" approach will weaken its determination to support this international order.

Preble and Ruger, on the other hand, reflect a more Realist perspective when they argue that primacy threatens to undermine U.S. security, as it is economically and militarily unsustainable. It also requires the United States to meddle in parts of the world that would be better left to their own devices. If the United States shows a constant willingness to shoulder all the burden, then other states (even U.S. allies) will be encouraged to free ride. For example, the United States continues to complain about the free riding of its North Atlantic Treaty Organization allies, who it accuses of paying too little toward their own defense. Primacy also threatens other states and encourages them to balance (not bandwagon), individually and in alliances, against it. Primacy is thus counterproductive for the United States and destabilizing for the rest of the world.



YES

Joseph Lieberman and Jon Kyl

Why American Leadership Still Matters

American leadership is critical to the security, stability, and prosperity of both the world and the American homeland. In recent years, however, US international leadership has increasingly been challenged in both spheres. Abroad, the international order is under attack from multiple sources: from nonstate actors such as al Qaeda, ISIS, Hezbollah, and others, to regional rogue states such as Iran and North Korea, a nationalist Russia challenging the sovereignty of neighboring states, and an increasingly ambitious China. Whether the aims of these countries or nonstate actors are hegemonic, terroristic, or just opportunistic, only vigorous international leadership from the United States and its allies will adequately address the challenges to the international order that each presents. No other country would, or could, fill America's shores as the underwriter of international security should the United States choose to step back.

Yet here at home, a growing number of Americans question whether the costs of US international leadership are worth the benefits. Some have lost confidence in the effectiveness of US national security policies as they have witnessed the efforts of America's political leaders yield questionable results. For others, the Great Recession shook their economic confidence and meant America needed to focus on nation building at home, and this continued economic insecurity has led to a reluctance to engage abroad. In both the economic and security realms, though, history shows that America and the world are more prosperous and secure when the United States exercises leadership.

At the end of World War II, the United States supported the creation of a new global political, military, and economic order. America played a central role in founding the United Nations, the International Monetary Fund, and the International Bank for Reconstruction and Development (the World Bank). In the years that followed, Washington concluded a series of bilateral and multilateral alliances, including the North Atlantic Treaty Organization, designed to reassure allies and deter potential aggressors. In the decades that followed, the United States played an essential role in nurturing and sustaining the international order that it helped build. That order has helped keep us safe and has allowed us to prosper.

At this crucial juncture, America faces a choice: continue to lead and work with its allies to preserve current international institutions and change them to meet the new threats and challenges of our time or risk the security and economic strength that has resulted from decades of US international leadership. Over the course of many discussions, we have concluded that international leadership aligns with America's enduring interests and objectives, and that the long-term risks of an inward-looking America overwhelm the short-term benefits.

Enduring US Interests and Objectives

For the better part of a century, under both Democratic and Republican administrations, the United States has fostered security and stability at home and abroad through the pursuit of a relatively consistent set of policy aims.

First and foremost, the United States has acted through the use of highly capable armed forces to protect the American people and to defend the country. The need to "provide for the common defense" was set out in the preamble to the Constitution as one of the central responsibilities of the federal government. Since World War II, the United States has responded to threats as far from America's shores as possible through highly capable armed forces and through diplomatic initiatives geared toward reducing, managing, and countering threats. Early, active involvement has been essential to preventing crises from becoming conflicts and for dealing with threats before they grow and spread. Moreover, the unquestioned strength of America's military capabilities—and the demonstrated will to use them—have provided deterrence to aggression from potential adversaries.

Second, to promote shared interests and shared values, as well as to protect its allies, the United States has developed a network of treaties and alliances with like-minded countries. In addition to America's own efforts, its allies have multiplied its strength and have helped maintain global and regional security. Australia, for example,

Lieberman, Joseph; Kyl, Jon. "Why American Leadership Still Matters," *American Enterprise Institute*, December 2015. Copyright ©2015 by American Enterprise Institute. Used with permission.

has recently played a major role in promoting security in Southwest Asia, including peacekeeping operations in East Timor and the Solomon Islands. France launched military operations against al Qaeda in Mali, and Japan has been an important and growing source of development and security assistance in Africa and elsewhere in the developing world.

Third, the United States has promoted and protected global public structures that have become as crucial to America's national security and prosperity as they are to nations across the globe. These include open markets and free trade, international standards for the environment and human rights, and many of the structures that underlie cyber and information technologies. Participation in international organizations not only provides America with the opportunity to shape and influence the evolution of international standards, but it also facilitates trade and reduces the likelihood that misunderstandings between great powers will lead to military conflict.

Fourth, the United States has acted over decades to ensure access to the global commons—that is, the sea lanes through which trade flows—in peacetime and protect them in wartime. Defending freedom of navigation on the high seas has benefited not only the United States but also nations the world over. The free flow of goods, services, and information resulting from the broad acceptance of these norms has facilitated global economic development, opened up markets to US goods and services, and ensured that US traders and businesses can compete on a level playing field.

A fifth objective is less frequently discussed but nonetheless represents an enduring American aim: for the past century, the United States has sought to preserve an equitable balance of interests across Eurasia. Ensuring a stable security environment across the Eurasian land mass not only has economic benefits for the United States but it also helps prevent the outbreak of conflicts that, because of its alliance obligations, could draw the United States into great power wars.

Finally, the United States has acted for the common good by providing humanitarian assistance and disaster relief. Indeed, the United States has historically led many international relief efforts through its own resources and expertise both civilian (e.g., the Agency for International Development) and military (the US Navy, Marine Corps, and Coast Guard), through the United Nations and other multilateral entities, and through civil society nongovernmental organizations and the charitable generosity of the American people. Humanitarian assistance and economic development are not only morally right things to provide and encourage, but they also create a world that is more stable and secure.

Those who call for the United States to retreat from its traditional international role explicitly or implicitly assume that the United States should trim the goals that it seeks to achieve. They argue that if the United States pulls back from leadership, it will entangle itself less in the world's problems. The historical case for this line of argument is flimsy—often, the United States has been pulled into foreign conflicts specifically because it tried to disengage, not because it engaged too much. (The Korean War and World War II are just two examples.) But if the benefits to the security of both the homeland and the international order of American leadership are clear, why do so many question the value of engagement?

Why US International Engagement is Being Questioned

Although the case for US international leadership, and the principles behind it, is strong, critics who argue that the costs of international involvement outweigh the benefits, both at home and abroad, are reacting primarily to two recent developments in American history.

First, more than a decade of war in Iraq and Afghanistan eroded the willingness of some Americans to support future major military operations. Some doubted the wisdom of the war in Iraq, while others questioned the effectiveness of US national security institutions in waging the wars once they had been launched. For some, the seeming inability of the United States to formulate and implement an effective strategy has raised larger questions about the efficacy of US military intervention in general.

Second, the Great Recession and the unequal distribution of the gains from the subsequent recovery have produced a mixture of anxiety and pessimism about America's role in the world. A growing number of Americans question why the United States is expending limited resources when many continue to struggle at home. Others see the North American energy boom as an opportunity for the United States to disengage from its overseas commitments, particularly in the Middle East.

The public still supports American international engagement when they see a worthy cause. A poll conducted by the Chicago Council on Global Affairs in 2014, as the reach of ISIS expanded and other powers, such as Russia and China, became increasingly assertive along their peripheries, showed that 6 in 10 Americans supported an "active" role for the US in international affairs.

These findings were a marked contrast to public attitudes from 2013, when the Pew Research Center found that "growing numbers of Americans believe that US global power and prestige are in decline" and that "support for

US global engagement, already near a historic low, had fallen further." That poll also found that members of the "millennial" generation (ages 18–29) were slightly more hesitant than older generations about US international leadership.

Public attitudes are often cyclical. So has America's level of engagement and restraint in the international arena, but this should not be the case. As the principal guarantor of international security, America creates space for new challenges to emerge and for old adversaries to grow stronger when it does not act. Time and again after major conflicts, Americans have questioned whether it makes sense to continue their leadership role, and time and again, events eventually remind Americans what the world would be like without their participation. The fact of the matter is that the consequences of American withdrawal would be long lasting and would affect both the international arena and the homeland. Regardless of the changing nature of public attitudes, this fact remains as true today as it ever was.

Why US International Engagement Still Matters

The world of today is far different than the world of 1945 or even that of 1995. The interconnected nature of global commerce and communications and the speed with which military power can be exerted, means that, unlike in the past, the United States could not disengage from the international community even if it so desired. The global integration and reach of communications and financial tools has created economic opportunities and empowered local populations in a manner never before seen. But it has also created opportunities for terrorist organizations and state actors alike to organize, support, and perpetrate attacks across international borders in new and rapid ways. Are America's enduring objectives still relevant today?

The first and foremost enduring objective of the United States, as with any nation, is to provide for the common defense of its own people. Maintaining credibility with allies, acting from a position of influence in international organizations, and providing aid to those who suffer around the world cannot be done if our national defense and capabilities are not strong. This is as true today as it ever was, but the budgetary cuts our military currently faces undermine this central objective. The first imperative of a new administration thus must be to work with Congress to reverse the effect of the Budget Control Act on defense spending. Though this was not its intention, the act has pushed the Pentagon into budgetary disarray and weakened the American military's capacity to defend America's core interests.

What of the second objective—the establishment and maintenance of useful alliances and partnerships? Despite the perception among some that the United States has a tendency to act unilaterally, the manner by which America has historically exercised its leadership tells a different story. Since World War I, the United States has consistently engaged, organized, and deployed with allies and coalition partners and produced decisive results. Many of these countries would not have—and in some cases, simply could not have—acted without the support of the United States.

America's allies share many of America's security concerns. But doubt in the ability or willingness of America to lead leaves our allies looking for other partners and security arrangements, ones that may not benefit America. Cooperating with allies also protects our security at home. Since September 11, 2001, for example, such cooperation has played a role in preventing no fewer than 11 of 60 planned terrorist attacks against the homeland.

The third and fourth objectives—promoting liberal economic values and maintaining access to the global commons—are arguably more important to the United States now than at any other point in history. Many saw the fall of the Soviet Union as proof of the superiority of the capitalist and liberal economic order long championed by the United States. In recent years, however, command economies that mix elements of communism and capitalism, such as China's economic system, have gained appeal in the developing world. Meanwhile, the world's shipping routes have increasingly come under threat by modern pirates and by manipulations of international legal regimes that grant countries exclusive rights to waters near their shores. Both of these developments threaten the vitality of international trade, which accounts for the equivalent of $10,000 of each American household's income.

Some may view the importance of the fifth objective, maintaining a favorable balance of power across Eurasia, as outdated. Recent events, however, have proven this objective's renewed importance. In the absence of clear leadership from the United States, Russia's hostilities toward its western neighbors have reached their highest levels since the Cold War; in addition to unilateral actions in the East and South China Seas, China has expanded its economic influence in Southeast Asia, Central Asia, and Africa; and Iran has continued to fund terrorist groups that threaten the stability of the Middle East. As ambitious nations become more powerful, it is in America's interest to ensure that their rise is peaceful. Otherwise, America

may find itself in a historically familiar situation in which it is called on by its allies to contribute to a conflict that could have been prevented through deterrence, strategy, diplomacy, and presence.

When people across the globe need help, they turn not to China, nor to Russia, but to America. This is particularly true in times of humanitarian need. Helping others is the right thing to do, but the last of the enduring objectives, humanitarian assistance and disaster relief, remains important to all Americans for more than just moral reasons. For very little money, foreign assistance creates goodwill toward the United States and eases the accomplishment of other economic and national security objectives. That goodwill translates into increased opportunities for American businesses, ease of travel for its citizens, and better diplomatic relations that can then be leveraged in times of difficulty. America's power bestows upon its citizens many benefits. With those benefits come a responsibility to help those in need—but doing so helps Americans too.

For all of the introspection by Americans about their role in the world and the media coverage of those from around the world who criticize the United States, the world's population, in fact, would rather have America at the wheel than anyone else. In its inaugural poll of international opinion about major world powers, Gallup found that an average of slightly more than 43 percent of respondents between 2007 and 2014 approved of America's leadership role in international affairs—higher than for any other country. People across the world understand that America leads on the global stage to protect not only its own interests but also the prosperity, security, and dignity of all. With increased calls for a retracted stance in international affairs, now is the time for Americans to remember this as well.

Conclusion

In sum, American leadership has helped ensure stability and security throughout the globe and has bestowed immeasurable benefits on the American people. The fact that the era of American leadership has corresponded with the decline of great power war is not a coincidence. Moving forward, US engagement and leadership will remain as crucial to security, stability, and prosperity today as in past decades. The arguments advanced by those advocating a retreat from America's traditional international role do not stand up under scrutiny. Still, these arguments need to be addressed. To be sustainable, US international engagement needs to be realistic and results oriented.

There is plenty of room to debate how best the US could play a 21st-century leadership role. But the key word here is how, not whether, it should play such a role. The choice before the United States is whether it will help shape the world or allow others to fill the vacuum created by its absence.

The foundation for American leadership—and the prosperity and security that derive from it—lies in the insurmountable power of its military. Speaking to the British House of Commons in 1982, Ronald Reagan stated, "Our military strength is a prerequisite to peace." The US military is the best trained, best equipped, and most capable in the world, and to maintain the peace, the United States must ensure that this continues to be the case.

Military strength is an essential element of national strength, but it is not the only tool in America's tool kit. To finish Reagan's thought, "We maintain this [military] strength in the hope it will never be used." The United States should thus rely on diplomatic and economic levers as tools of first resort in its interactions with other countries. It should meet its obligations to its allies and expect its allies to meet their obligations to the United States. International engagement and leadership are often equated with military intervention, but engagement across other fronts will often preclude the need to resort to violence.

The security, diplomatic effectiveness, and economic vitality of the American people are inextricably intertwined, and the absence of security imperils the other two. President John F. Kennedy understood this truism when he stated in 1961, "Diplomacy and defense are not substitutes for one another." Today, the links between diplomacy and defense are still frequently lost in public conversations about the importance of maintaining a ready and capable force; too often, providing for the common defense is construed as an end unto itself rather than as a means to protect the interests of all Americans. In fact, maintaining our military power, and the ability to project it, may be more important in today's interconnected world than at any time in our history.

Joseph Lieberman is a former U.S. Senator from Connecticut who served between 1989 and 2013.

Jon Kyl is a former U.S. Senator for Arizona who served from 1995 to 2013.

Christopher Preble and William Ruger

NO

The Problem with Primacy

- America's current foreign policy approach—primacy (or global hegemony)—is excessively costly, built on flawed assumptions, and ultimately counterproductive for American safety.
- Primacy increases the likelihood that the United States will be drawn into wars unconnected to our security.
- The United States needs an alternative foreign policy, one that maintains a superior defense capability that focuses on advancing America's security while expecting other countries to take more responsibility for challenges in their respective regions.

U.S. foreign policy should be focused on the goal of keeping America strong and safe. Unfortunately, since World War II, the United States has followed a foreign policy aimed at the quixotic goal of primacy, or global hegemony, which is both difficult and costly to sustain while being frequently disconnected from American security needs. Under primacy, as Barry Posen and Andrew Ross note, "only a preponderance of U.S. power ensures peace . . . Peace is the result of an imbalance of power in which U.S. capabilities are sufficient, operating on their own, to cow all potential challengers and to comfort all coalition partners." Primacy also assumes that we must secure a broad set of intermediate interests necessary for our ultimate safety, such as global stability, the spread of democracy, and universal human rights.

A foreign policy that emphasizes our safety would concentrate on vital U.S. national interests and maintain the tools necessary to defend them. It also would reject the need for global hegemony and refute the idea that we can only be safe once the world is remade in our image. Moreover, it would take seriously the consequences of our actions abroad and here at home—on our soldiers, our fiscal health, and our principles.

This chapter outlines the basic precepts of current U.S. foreign policy, revealing its flaws and demonstrating the need for an alternative approach. Subsequent chapters will discuss alternative approaches and the military capabilities required.

Primacy aims to preserve and extend America's dominant position in the international system. Primacists argue that this is good not only for America, but also for the world. The strategy hinges on a large, expensive, and globally deployed military designed to stop prospective threats and smother potential peer competitors before they materialize. Primacy also requires a globe-girdling array of allies and the active spread of liberal values. It even means "resisting, and where possible, undermining, rising dictators and hostile ideologies" through frequent military interventions, as primacists Robert Kagan and Bill Kristol have argued. They are comfortable going to war even "when we cannot prove that a narrowly construed 'vital interest' of the United States is at stake." Primacists hold that it would simply be too dangerous to allow other countries to defend themselves or assert their interests. Some will try but fail, necessitating costly U.S. intervention later. Others will succeed too well, unleashing arms races that would alter the delicate balance of regional or international relations. Thus, primacy attempts to reassure our friends—including longtime U.S. allies such as Germany and Japan—so that they won't feel the need to take on a larger role, while also deterring (or, if necessary, cutting down) potential rivals from challenging American dominance.

Unfortunately—but predictably given what theory and history teach us—primacy has been neither easy to implement nor cheap to sustain. When the U.S. military is called upon to fight wars across the globe, the human toll is considerable. Just within the past 15 years, nearly 7,000 U.S. troops have been killed, 52,000 have been wounded in action, and close to a million veterans have registered disability claims.

The fiscal burdens of primacy are severe as well. The wars in Iraq and Afghanistan cost the United States trillions of dollars, some of which we will be paying long into the future in the form of additional debt servicing and veteran care. And primacy guarantees more fighting in the future—and the bills that come with it.

Of course, we ought to have a strong defense. But under primacy, the U.S. military is expected both to prevent threats from materializing and to stomp out

Preble, Christopher; Ruger, William. "The Problem with Primacy," *Warontherocks.com* July 2016. Copyright ©2016 by War on the Rocks Media, LLC. Used with permission.

any fires it fails to prevent. That expectation requires us to maintain the world's largest and most active military, which we do. The false claims that the Budget Control Act "gutted" the U.S. military budget have contributed to the widespread belief that the U.S. military has been hollowed out and needs to be "rebuilt." Indeed, a recent Gallup poll found that less than half of Americans think that the U.S. military is the preeminent fighting force in the world. But the facts show that it clearly is. In 2016, inflation-adjusted dollars, military spending—both war and nonwar—averaged $606 billion per year during President George W. Bush's two terms in office; under President Barack Obama, it has averaged $668 billion. And no state can match U.S. global power projection capabilities.

By the end of this year, the United States will have spent nearly $500 billion more in the period 2009–2016 than in the period 2001–2008. Meanwhile, U.S. debt soars unsustainably toward $20 trillion. The United States spends at least as much on its military as the next 10 countries worldwide, including some U.S. allies, and nearly three times more than China and Russia combined. Although not all of that money is spent wisely, it still buys incomparable capabilities; no sensible American should wish to trade places with any other country on Earth. The U.S. military is second to none, and our massive economy enables us to quickly build an even bigger one should conditions call for it.

The United States could easily spend less and still safeguard America's vital interests. It could do so through smarter spending, eliminating wasteful gold-plated programs such as the F-35, and demanding greater burden sharing from our allies. At present, U.S. security guarantees to wealthy allies cause them to underprovide for their own defense, meaning they have less capacity to help us deal with common security challenges.

Former chairman of the Joint Chiefs of Staff Adm. Michael Mullen warned that debts and deficits represent threats to not just our fiscal health but our national security as well. Primacy isn't necessary to maintain U.S. security, but its high costs undermine our economic security. Indeed, primacy is doubly harmful because it increases the likelihood that the United States will be drawn into other people's fights and provoke moves by others to counteract U.S. power.

Consider three of primacy's key assumptions: (a) that technology has rendered geography moot, subjecting the United States to more urgent and prevalent threats than ever before, (b) that U.S. security guarantees reassure nervous allies and thus contribute to global peace and stability, and (c) that a large and active U.S. military is essential to the health of the international economy.

Primacists hold that new technologies and geopolitics do not allow the United States to adopt a wait-and-see attitude with respect to distant threats. They believe that "a seamless web of interests" binds the security of all states together and contend that threats to others are actually threats to the United States. It is also the root of the claim that instability and crises abroad will adversely affect American interests if they are allowed to fester. Because any problem, in any part of the world, could eventually threaten U.S. security or U.S. interests, primacy aims to stop all problems before they occur. But this assumption is based on a very selective reading of world history, grossly exaggerates the United States' ability to control outcomes, and underplays the costs. It also miscasts the nature of the threats that are facing us.

Technology has not evaporated the seas, allowing large land armies to march across the ocean floor. Meanwhile, potential challengers like China face more urgent problems that should diminish their desire and ability to project power outside of their neighborhood. China's economic troubles and rising popular unrest, for example, could constrain Chinese military spending increases and focus Beijing's attention at home. Causing problems abroad would threaten critical trading relations that are essential to the health of the Chinese economy.

Primacists argue that we cannot rely on oceans to halt nuclear missiles that fly over them or cyberattacks in the virtual realm. And terrorists could infiltrate by land, sea, or air, or they could be grown right here at home. But our own nuclear weapons provide a powerful deterrent against state actors with return addresses, and a massive, forward-deployed military is not the best tool for dealing with terrorists and hackers. The hard part is finding them and stopping them before they act. That is a job for the intelligence and law enforcement communities, respectively, and for small-footprint military units like special operations forces.

There have always been dangers in the world, and there always will be. To the extent that we can identify myriad threats that our ancestors could not fathom, primacy compounds the problem. By calling on the United States to deal with so many threats, to so many people, in so many places, primacy ensures that even distant problems become our own.

Another key problem is that primacy inadvertently increases the risk of conflict. Allies are more willing to confront powerful rivals, because they are confident that the United States will rescue them if the confrontation turns ugly, a classic case of moral hazard, or what Barry Posen calls "reckless driving."

Restraining our impulse to intervene militarily or diplomatically when our vital national interests are not threatened would reduce the likelihood that our friends and allies will engage in such reckless behavior in the first place. Libya and Georgia are only two cases of this problem. Plus, a more restrained U.S. foreign policy would provide a powerful incentive for allies to share the burden of defense.

Primacy has not stopped rivals from challenging U.S. power. Russia and China, for example, have resisted the U.S. government's efforts to expand its influence in Europe and Asia. Indeed, by provoking security fears, primacy exacerbates the very sorts of problems that it claims to prevent, including nuclear proliferation. U.S. efforts at regime change and talk of an "axis of evil" that needed to be eliminated certainly provided additional incentives for states to develop nuclear weapons to deter U.S. actions (e.g., North Korea).

Meanwhile, efforts intended to smother security competition or hostile ideologies have destabilized vast regions, undermined our counterterrorism efforts, and even harmed those we were ostensibly trying to help. After U.S. forces deposed the tyrant Saddam Hussein in 2003, Iraq descended into chaos and has never recovered. The situation in Libya is not much better; the United States helped overthrow Muammar el-Qaddafi in 2011, but violence still rages. The Islamic State, which originated in Iraq, has now established a presence in Libya as well. It is clear that those interventions were counterproductive and have failed to make America safer and more secure.

Lastly, primacists contend that U.S. military power is essential to the functioning of the global economy. The United States sets the rules of the game and punishes those who defy them. They also claim that primacy conveys economic rewards. If the United States were less inclined to intervene in other people's disputes, the primacists say, the risk of war would grow, roiling skittish markets. But such claims exaggerate the role that U.S. ground forces play in facilitating global trade, especially given the resiliency and flexibility of global markets in the face of regional instability. Moreover, primacists ignore the extent to which past U.S. military activism has actually undermined market stability and upset vital regions. Smart alternatives to primacy feature a significant role for the U.S. Navy and Air Force in providing security in the global commons while avoiding the downsides of onshore activism.

In conclusion, America's foreign policy status quo is unnecessarily costly and unnecessarily risky. Its defenders misconstrue the extent to which U.S. military power has contributed to a relatively peaceful international system, and they overestimate our ability to sustain a global military posture indefinitely.

The United States needs an alternative foreign policy, one that focuses on preserving America's strength and advancing its security, and that expects other countries to take primary responsibility for protecting their security and preserving their interests. America's leaders should restrain their impulse to use the U.S. military when our vital interests are not directly threatened and avoid being drawn into distant conflicts that sap our strength and undermine our security and values.

Christopher Preble is vice president for Defense and Foreign Policy Studies at the CATO Institute.

William Ruger is a research fellow at the CATO Institute and vice president for Research and Policy at the Charles Koch Institute.



EXPLORING THE ISSUE

Should the United States Continue to Act as a Global Leader?

Critical Thinking and Reflection

1. Is the world becoming more peaceful as democracy, free trade, and international institutions spread?
2. Do you believe that global threats, like terrorism and nuclear proliferation, will increase if American leadership diminishes?
3. Are there any circumstances under which you think the U.S. should conduct regime change?
4. Was the U.S. dragged into WWI and WWII because it had become isolationist?
5. Do you think other regions of the world would become more stable if the U.S. stopped "interfering" in them?

Is There Common Ground?

Though the authors appear diametrically opposed in their positions, there may be some common ground between them. The experience of the U.S. adoption of primacy during the George W. Bush administration has obviously made proponents of this approach more circumspect in their aspirations. Even scholars like Charles Krauthammer have accepted that the unsustainable policy of trying to spread democracy everywhere should be replaced with a more limited goal of spreading it in places where it will make the greatest difference. In fact, even the George W. Bush administration itself adapted to this reality in its second term.

Just as there is a spectrum of opinion amongst those who favor primacy about when the United States should be more forceful in its support of democracy and free trade, so too amongst Realist scholars, there is a debate about the appropriate degree of U.S. engagement in world affairs. Some, for example, believe that the U.S. needs to continually station military forces abroad to actively manage the balance of power in other regions. Others believe the United States should only do so when absolutely necessary—what they call a "balancer of last resort."

There are also times when the perspectives of Liberals and Realists coincide. For example, during the Cold War, Realists supported U.S. deployments in Western Europe because they promoted the balance of power, whilst Liberals did so because they were defending democracy and capitalism. One might be able to identify similar shared policies today, for example, on whether to contain a growing and undemocratic China.

However, the fundamental differences between these perspectives cannot be ignored either. Do states tend to bandwagon or balance? Does democracy make the world more peaceful? Will the vacuum created in the absence of U.S. leadership allow threats to grow, or will it encourage states in those regions to balance each other and resolve their own regional problems? Your answers to these questions will determine who you believe best understands world politics and which approach the United States should adopt toward its international engagement.

Additional Resources

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Foreign Policy in Focus

http://fpif.org/

Hoover Institution

http://www.hoover.org/



Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Was Russia's Intervention in Ukraine the Result of Western Aggression?

YES: Vladimir Putin, from "Address by President Vladimir Putin at the Conference of Russian Ambassadors and Permanent Representatives," *Permanent Mission to the Russian Federation to the European Union, Moscow* (2014)

NO: North Atlantic Treaty Organization, from "Russia's Accusations: Setting the Record Straight," *Factsheet Issued by NATO http://www.nato.int/cps/en/natolive/topics_111767.htm* (2014)

Learning Outcomes

After reading this issue, you will be able to:

- Describe the events leading up to the Russian intervention in Ukraine in 2014.
- Assess whether democratic political systems affect the foreign policies of states like Russia.
- Assess whether Russia's intervention was conducted for defensive or offensive reasons.

ISSUE SUMMARY

YES: Vladimir Putin, President of Russia, tells a gathering of Russia's diplomats that their country's response to events in Ukraine represents a legitimate reaction to threats to ethnic Russians living in Ukraine and to Russia's national security interests. He lays the blame on Ukrainian nationalism and on a North Atlantic Treaty Organization (NATO)-led effort to bring threatening forces ever closer to Russia's borders.

NO: A report issued by NATO asserts that it is Russia's aggression against Ukraine that has led to the crisis. NATO further argues that to divert attention away from its actions, Russia has leveled a series of false accusations against NATO.

Russia experienced two momentous revolutions during the 20th century. The first began in March 1917 with the events that led to the fall of the czar's government and the establishment of the Union of the Soviet Socialist Republics (USSR), with Russia one of its 15 republics.

The second major revolution occurred in 1991 when the USSR collapsed and its 15 republics became independent countries. Of these former Soviet republics (FSRs), Russia is by far the most influential in terms of territory, population, resources, and power. Russia retained the bulk of the Soviet Union's military assets including its nuclear weapons. It was not long, however, before the exhilaration of independence subsided amid the myriad problems that began to affect it. The Russian economy declined sharply, which had a corresponding effect on its military capabilities.

For good or ill, Russia's fortunes began to improve when its second president, Vladimir Putin, was elected in 2000. He brought a level of stability and rejuvenation to Russia. Russia's economy has grown substantially, and Russia's military forces have regained at least some of their former capacity. Russia is certainly not the superpower the Soviet Union was, but it is once again a major power and far overshadows the strength of the other former FSRs,

including Ukraine, and the countries of Eastern Europe that were once Soviet client states and allies.

Putin served two terms as president (2000–2008), but was ineligible to run for a third term. In what was little more than a sham transfer of power, Putin's prime minister, Dmitry Medvedev, served as president from 2008 to 2012. Then Putin, eligible once again, ran for president and was elected to a third term (in a five-way contest) with 64 percent of the vote. His nearest opponent managed only 17 percent. Since then, Putin's popularity has remained impressively high. Even three years after the invasion of Ukraine, the event that is the focus of this issue, Gallup shows his popularity just above 80 percent.

There have been two important trends under Putin. First, Russia has become steadily less democratic. Most of the independent news media is gone, local authorities have lost much of their power, and opposition movements and leaders are increasingly repressed. Surely, Putin is not a totalitarian dictator in the mold of Vladimir Lenin or Josef Stalin, but neither can Putin be characterized as a democratic leader.

Second, Russia has moved with increasing emphasis to rebuild its military and reassert its identity as a Great-Power. Putin and most Russians believe that their country deserves an important place in global affairs, just as the Soviet Union and Imperial Russia had before it.

This reassertion of power has caused or worsened a variety of issues that divide Russia from the United States and its North Atlantic Treaty Organization (NATO) allies. For example, Moscow believes that it is threatened by the United States led drive to expand NATO ever eastward since the end of the Cold War. NATO now includes 12 former communist states, including most of the Soviet Union's former East European allies and even three FSRs (Estonia, Latvia, and Lithuania). In 2008, NATO even declared that the FSR's of Ukraine and Georgia would one day join, but did not provide a timetable for their accession.

Russia is also alarmed by the expansion of the European Union (EU) to its borders. Most East European countries are now EU members, including Estonia, Latvia, and Lithuania. Indeed, as the discussion in this issue will show, Russia argues that its intervention in Ukraine only occurred because of a U.S.-inspired coup conducted against the Moscow-friendly President of Ukraine, Viktor Yanukovych. The coup, they believe, was designed to ensure Ukraine joined the EU and NATO.

The crisis in Ukraine began in late 2013 when protests broke out against the effort of Yanukovych to reverse his country's movement toward EU membership. He was forced from power, and in May 2014 a new president, Petro Poroshenko, was elected. He had campaigned on a pro-EU platform.

That was soon followed by Russia seizing the Crimea. It was part of Ukraine, but also the site of Russia's major naval base on the Black Sea, important for its access to the Mediterranean Sea. The seizure was generally portrayed in the West as clear aggression, but there are mitigating factors. One is that Crimea had been a part of Russian territory since the late 18th century, but only became part of Ukraine in 1954 as a result of arcane Soviet internal politics.

Second, the majority of people in Crimea are not ethnic Ukrainians. According to the 2001 Ukrainian census, Russians made up 58 percent of the Crimea's population, followed by Ukrainians (24 percent) and Crimean Tatars (12 percent). Adding to the unrest, ethnic Russians make up about 30 percent of the population in Ukraine's four most eastern provinces. These ethnic Russians, at least with some encouragement by Moscow, argued they feared Ukrainian oppression and have launched a secessionist movement.

So, who is to blame for the crisis in Ukraine? In the first selection, the President of Russia, Vladimir Putin, in a speech to Russian Ambassadors as the crisis unfolds, places the blame squarely on Western forces, who through the incitement of revolution in Ukraine and the expansion of NATO left Russia with no option but to protect the Russian people of Crimea and its naval base in the Black Sea. In the second selection, NATO responds in a point-by-point refutation of Putin's major arguments. For NATO, accusations of "forcing" Ukraine to become a member and then basing offensive military capabilities on the Russian border are absurd. NATO is a vehicle for states to consolidate democracy and free trade while cooperating militarily for mutual security, thus Russia has nothing to fear.

Hopefully, you will have begun to see the framework of a realist–liberal debate here too. Realists are generally opposed to NATO expansion because they believe it is encroaching on Russia's sphere of interest as a Great-Power. Any Great-Power in this situation would intervene in a neighboring state to prevent it from joining a military alliance that is intent on expanding up to its borders, especially when that state contains a naval base of such strategic importance. While the West has pursued NATO "enlargement" and perceived the whole process as spreading peace and security, the Russians have understandably perceived it as NATO "expansion." Russia's interventions in Georgia in 2008 and Ukraine in 2014 are thus symptoms

of the same malaise—the failure of the West to appreciate how aggressive their behavior appears to Russia.

Liberals, on the other hand, believe that international organizations like NATO can help spread democracy, free trade, and the rule of law, thus making the world a safer place. The citizens of Ukraine deserve to be the beneficiaries of that just as much as anybody else and they should not be prevented from being so by an increasingly authoritarian and aggressive Russia. The selection from NATO very much reflects these Liberal premises. Try to keep this theoretical framework in mind as you read the selections.



YES

Vladimir Putin

Address by President Vladimir Putin at the Conference of Russian Ambassadors and Permanent Representatives

Meetings with the diplomatic corps [and Russia's president] have become a tradition. We need this direct conversation to make an overall assessment of the situation in the world, to set current and long-term foreign policy objectives and on that basis to more effectively coordinate the work of our missions abroad.

I would like to begin by saying that the Foreign Ministry and our embassies are under a lot of pressure; we see this, we are aware of this, but this pressure will not be reduced. It will only increase, just as the requirement to show efficiency, precision and flexibility in our actions to ensure Russia's national interests.

You know how dynamic and unpredictable international developments may sometimes be. They seem to be pressed together and unfortunately are not all of a positive nature. The potential for conflict is growing in the world, old contradictions are growing ever more acute and new ones are being provoked. We come across such developments, often unexpectedly, and we observe with regret that international law is not working, the most basic norms of decency are not complied with and the principle of all-permissiveness is gaining the upper hand.

We are observing this in Ukraine as well. We need to understand clearly that the events provoked in Ukraine are the concentrated outcome of the notorious deterrence policy. As you may know, its roots go deep into history and it is clear that unfortunately, this policy did not end with the end of the Cold War.

In Ukraine, as you may have seen, at threat were our compatriots, Russian people and people of other nationalities, their language, history, culture and legal rights, guaranteed, by the way, by European conventions. When I speak of Russians and Russian-speaking citizens I am referring to those people who consider themselves part of the broad Russian community; they may not necessarily be ethnic Russians, but they consider themselves Russian people.

What did our partners expect from us as the developments in Ukraine unfolded? We clearly had no right to abandon the residents of Crimea and Sevastopol to the mercy of nationalist and radical militants; we could not allow our access to the Black Sea to be significantly limited; we could not allow NATO [North Atlantic Treaty Organization] forces to eventually come to the land of Crimea and Sevastopol, the land of Russian military glory, and cardinally change the balance of forces in the Black Sea area. This would mean giving up practically everything that Russia had fought for since the times of Peter the Great [czar of Russia, 1682–1725], or maybe even earlier—historians should know.

I would like to make it clear to all: our country will continue to actively defend the rights of Russians, our compatriots abroad, using the entire range of available means—from political and economic to operations under international humanitarian law and the right of self-defense.

I would like to stress that what happened in Ukraine was the climax of the negative tendencies in international affairs that had been building up for years. We have long been warning about this, and unfortunately, our predictions came true.

You know about the latest efforts to restore, to maintain peace in Ukraine. Foreign Ministry staff and the Minister himself took an active part in this. You know about the numerous telephone conversations we had on this subject.

Unfortunately, [Ukraine's President Petro] Poroshenko has resolved to resume military action, and we failed—when I say "we," I mean my colleagues in Europe and myself—we

Address by President Vladimir Putin at the Conference of Russian Ambassadors and Permanent Representatives, Permanent Mission to the Russian Federation to the European Union, April 2014 (updated July 2014).

failed to convince him that the road to a secure, stable and inviolable peace cannot lie through war.

So far Mr. Poroshenko was not directly linked to the orders to begin military action, and only now did he take full responsibility, and not only military, but political as well, which is much more important.

We also failed to agree to make public the statement approved by the foreign ministers of Germany, France, Russia and Ukraine on the need to maintain peace and search for mutually acceptable solutions.

I would like to draw your attention to the fact that after the ceasefire was declared, no substantive, as you say, negotiations on the settlement of the situation ever began. Virtually, a disarmament ultimatum was given. However, even the ceasefire was not bad overall, though not enough to settle the situation on a long-term basis in a way that would be acceptable to all the people living in the country, including those in its southeast.

A constitution was made public, but it was never discussed. Even within Ukrainian society there is a discussion of whether it is good or bad, but nobody definitely ever discussed it with the east.

Of course, everything that is going on in Ukraine is the internal affair of the Ukrainian state. It pains us to see people dying, especially civilians. As you may know, the number of refugees in the Russian Federation is growing. We will of course provide assistance to all those who need it. However, killing journalists is unacceptable. I reminded the Ukrainian president of this yesterday yet again.

In my view, we are observing a focused effort to liquidate all media representatives. This applies to both Russian and foreign journalists. Who could be afraid of fair reporting? Probably those who are committing crimes. We strongly hope that the Ukrainian authorities act on their promises to carefully investigate the crimes.

More new hotspots are appearing on the world map. There is a deficit of security in Europe, in the Middle East, South-East Asia, in the Asia-Pacific region and in Africa. The global economic, financial and trade systems are becoming unbalanced, and moral and spiritual values are being washed out.

There is hardly any doubt that the unipolar world order did not come to be. Peoples and countries are raising their voices in favor of self-determination and civilizational and cultural identity, which conflicts with the attempts by certain countries to maintain their domination in the military sphere, politics, finance, economy and ideology.

I know this has no direct bearing on us, however what is being done to the French banks can cause nothing but indignation in Europe in general and here as well. We are aware of the pressure our American partners are putting on France to force it not to supply Mistrals to Russia. We even know that they hinted that if France does not deliver the Mistrals, the sanctions will be quietly lifted from their banks, or at least they will be significantly minimized. [The Mistral is a French large amphibious assault ship capable of launching helicopters. Similar ships are members of the Mistral class, and France agreed in 2010 to build two for Russia for $1.7 billion. The first is due in 2015, the second in 2017.]

What is this if not blackmail? Is this the right way to act on the international arena? Besides, when we speak of sanctions, we always assume that sanctions are applied pursuant to Article 7 of the UN Charter. Otherwise, these are not sanctions in the true legal sense of the word, but something different, some other unilateral policy instrument.

In the past 20 years, our partners have been trying to convince Russia of their good intentions, their readiness to jointly develop strategic cooperation. However, at the same time they kept expanding NATO, extending the area under their military and political control ever closer to our borders. And when we rightfully asked: "Don't you find it possible and necessary to discuss this with us?" they said: "No, this is none of your business." Those who continue insisting on their exclusivity strongly dislike Russia's independent policy. The events in Ukraine prove this. They also prove that a model of relations full of double standards does not work with Russia.

Nevertheless, I hope pragmatism will eventually prevail. We need to get rid of ambitions, of attempts to establish a "world barracks" and arrange everybody by rank, or to impose single rules of behavior and life, and to finally begin building relations based on equality, mutual respect and concern for mutual interests. It is time we admit each other's right to be different, the right of every country to live its own life rather than to be told what to do by someone else.

Colleagues, in its foreign policy Russia has been consistently proceeding from the notion that solutions to global and regional conflicts should be sought not through confrontation, but through cooperation and compromise. We advocate the supremacy of international law while supporting the UN's leading role.

International law should be mandatory for all and should not be applied selectively to serve the interests of individual select countries or groups of states, and most importantly, it should be interpreted consistently. It is impossible to interpret it in one way today, and in a different way tomorrow to match the political goals of the day.

World development cannot be unified. However, we can look for common issues, see each other as partners

rather than competitors, and establish cooperation between states, their associations and integration structures.

These are the principles we were guided by in the past, and they continue to guide us now as we promote integration within the CIS. Strengthening close friendly ties and developing mutually advantageous economic cooperation with our neighbors is the key strategic priority of Russia's long-term foreign policy. [The CIS, or Commonwealth of Independent States, is a loose cooperation agreement created after the collapse of the Soviet Union in 1991 by Russia and all the other 15 former Soviet republics except Latvia, Lithuania, Estonia, and Georgia.]

The driving force behind Eurasian integration is the trio of Russia, Belarus and Kazakhstan [all former Soviet republics, FSRs]. The Agreement on the Eurasian Economic Union, signed in Astana [the capital of Kazakhstan] on May 29 [2014], symbolizes a qualitatively new step in our relations. A powerful center of economic development that attracts business and investors, a common market is being formed in Eurasia. That is why our CIS partners show a strong interest in this union. I hope that very soon, Armenia will become a full-fledged member of this union. Negotiations with [FSR] Kyrgyzstan are at an advanced stage. We are open to other Commonwealth states as well.

As we promote the Eurasian integration project, we are in no way trying to separate ourselves from the rest of the world; we are ready to consider prospects for creating free trade zones both with individual states and with regional associations and unions, primarily the European Union, of course.

Europe is our natural and most significant trade and economic partner. We strive to find new opportunities to expand our business cooperation, to open up new prospects for mutual investment and to lift trade barriers. This requires an upgrade of the legal contractual base of our cooperation and the stability and predictability of ties, primarily in such strategically important areas as energy. Stability on the entire territory of Eurasia and sustainable development of the EU economies and Russia depend on well-coordinated cooperation based on consideration for mutual interests.

We have always held high our reputation of a reliable supplier of energy resources and invested in the development of gas infrastructure. Together with European companies, as you may know, we have built a new gas transportation system called Nord Stream under the Baltic Sea. Despite certain difficulties, we will promote the South Stream project, especially since ever more European politicians and businessmen are coming to understand that someone simply wants to use Europe in their own interests, that it is becoming a hostage of someone's nearsighted ideologized approaches.

If we return to Ukraine, the violation by Ukraine of its commitments regarding the purchase of our natural gas has become a common problem. Kiev refuses to pay on its debt. This is absolutely unacceptable. They have not paid for November–December of last year [2013], though there were no arguments whatsoever then.

Our partners are using blatant blackmail—this is what it is. They demand an ungrounded reduction of prices on our goods, though the agreement was signed in 2009, and the parties complied with it in good faith. Now, as you may know, the court in Kiev [Ukraine's capital] has lifted all accusations against Ukraine's former Prime Minister Tymoshenko, who signed the contract. Thus, the Kiev court authorities admit that they have done everything right not only by international law, but by Ukrainian law as well. But they do not wish to comply, or to pay for the product already received.

As of June 16, as you may know, we have transferred Ukraine to a pre-payment system, so they will get exactly the amount of gas they pay for. Today they do not pay; therefore, they are not getting anything—only in the so-called reverse mode. We know all about this reverse mode: it is a fake; there is no reverse mode. How can you supply gas two ways along the same pipeline? One does not have to be a gas transportation expert to understand that this is impossible. They are playing tricks with some of their partners: in fact, they are getting our gas and paying some western partners in Europe who are not receiving their volume. We are quire aware of this.

We are not taking any action at this point only because we do not want the situation to deteriorate. However, everyone should draw the proper conclusions from the situation. The main thing is that honest gas consumers and suppliers should not suffer from the actions of Ukrainian politicians and bureaucrats.

Generally, all of us—Ukraine, our European partners, and we—should seriously consider how to reduce the probability of any type of political or economic risks or force majeure situations on the continent.

In this connection, I would like to remind you that in August 2015 we will be marking 40 years of the Final Act of the Conference on Security and Cooperation in Europe [CSCE]. This anniversary is a good reason not only to turn to the basic principles of cooperation on the continent that were laid back in 1975, but also to jointly make them work, to help them take root in practical European politics. [The CSCE created the Organization for Security and Cooperation in Europe, an organization with 57 member

countries, including Russia and the United States, founded to promote peace, primarily in Europe.]

We have to work consistently to rule out any unconstitutional coups in Europe, any interference in the internal affairs of sovereign states, the use of blackmail or threats in international relations or the support of radical and neo-Nazi forces.

All of us in Europe need a sort of safety net to make sure that Iraqi, Libyan or Syrian—and unfortunately, I have to say also Ukrainian—precedents do not become contagious. This is especially dangerous for the post-Soviet area, because the states have yet not gained political or economic strength, they do not have a stable political system. It is very important that the constitutions of these states be treated with great care and respect.

Why is this important—and not only on the post-Soviet area, but all over Europe? Because even in those countries of Western and Eastern Europe where things seem to be going fine, there are quite a few hidden ethnic and social contradictions that may become acute any moment, may serve as ground for conflicts and extremism, and may be used by external forces to rock the social and political situation to achieve an illegitimate undemocratic change of power with all the negative consequences.

Firm guarantees of indivisible security, stability, respect for sovereignty and non-interference in each other's internal affairs should become the basis that we can use to build a common space for economic and humanitarian cooperation that would spread from the Atlantic Ocean to the Pacific Ocean—I already spoke of this as a single space from Lisbon to Vladivostok [a port in Russia on the Pacific Ocean].

I would like to ask the Foreign Ministry to draft a set of proposals in this respect, with special focus on the inadmissibility of any attempts to influence internal political processes from the outside. The job is to work the traditional principle of non-interference into the modern European realities and initiate a serious international discussion on the subject.

We also need to continue strengthening the eastern vector of our diplomacy, to more intensively use the impressive potential of the Asia-Pacific region in the interests of the further development of our country, primarily, of course, of Siberia and the Far East. We should continue to direct Russia's policy in Asia and the Pacific at maintaining the security of our eastern borders and at supporting peace and stability in the region. The coming leadership of Russia in the Shanghai Cooperation Organization, and the SCO and BRICS summits to be held in Ufa in the summer of 2015 work to support this. [The SCO is an economic/military cooperation organization created in 2001 by China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan. BRICs denotes Brazil, Russia, China, and India and their economic cooperation talks.]

We need to strengthen overall partnership and strategic cooperation with the People's Republic of China. We can say that a strong Russian-Chinese connection has taken shape on the international arena. It is based on a coincidence of views on both global processes and key regional issues. It is of primary importance that Russian-Chinese friendship is not directed against anyone: we are not creating any military unions. On the contrary, this is an example of equal, respectful and productive cooperation between states in the 21st century.

We intend to further develop our relations with our traditional partners in this area of the world: with India and Vietnam, who are playing an ever-greater role in the world; with Japan and other countries, including the ASEAN [the ten-member country Association of South East Asian] states. We intend to further use the potential of the growing markets in Latin America and Africa and the great experience of political and humanitarian relations with the countries there.

Our contacts with the United States of America are of great importance for the whole world. We do not intend to shut down our relations with the USA. True, bilateral relations are not in their best shape, but—I would like to stress this—not through Russia's fault. We have always tried to be predictable partners and conduct our affairs on the basis of equality. However, in return, our lawful interests were often ignored.

Now over to various types of international meetings. If we are assigned the observer role without a decisive vote on key issues that are of vital importance to us, then such meetings are of little interest to us [this refers to NATO]. We should not sacrifice our vital interests just for the sake of being able to sit and observe. I hope our partners will eventually come to understand this obvious fact. So far, we have been hearing ultimatums or mentoring. Nevertheless, we are ready for dialogue, but I would like to stress that this should be an equal dialogue.

Colleagues, the complicated and unpredictable situation in the world places great demands on Russian diplomats' professional level. The Foreign Ministry's staff in Moscow and the Russian embassies abroad worked effectively and in coordinated fashion during the serious situation with Crimea and Ukraine, and I want to thank you for this. I particularly note the work done by the heads and staff of Russia's representative missions at the UN and other key international organizations.

We must continue working with just such energy and dignity, in a spirit of tact, restraint and sense of measure of course. Our position must be based on clear and unshakeable principles of international law and legal and historical justification, on truth, justice, and the strength of moral superiority.

Vladimir Putin is the President of Russia (2000–2008, 2012–present) and a former prime minister (2008–2012). He is a former officer of the national security agencies of the Soviet Union and Russia. Putin has a degree in international law from Leningrad State University.



North Atlantic Treaty Organization **NO**

Russia's Accusations: Setting the Record Straight

Russia's aggression against Ukraine has led to Russia's international isolation, including NATO's suspension of all practical cooperation with Russia. To divert attention away from its actions, Russia has leveled a series of accusations against NATO which are based on misrepresentations of the facts and ignore the sustained effort that NATO has put into building a partnership with Russia. Russia has also made baseless attacks on the legitimacy of the Ukrainian authorities and has used force to seize part of Ukraine's territory. This document sets the record straight.

Russian Claims That the Ukrainian Authorities Are Illegitimate

Ukraine's President [Petro] Poroshenko was elected on 25 May with a clear majority in a vote which the OSCE [Organization for Security and Cooperation in Europe] characterized as showing the "clear resolve of the authorities to hold what was a genuine election largely in line with international commitments and with a respect for fundamental freedoms." The only areas where serious restrictions were reported were those controlled by separatists, who undertook "increasing attempts to derail the process." In other words, the president [of Ukraine] is legitimate, the actions of the separatists were not.

The current Ukrainian government was approved by an overwhelming majority in the Ukrainian parliament (371 votes out of 417 registered) on 27 February 2014, including members of the Party of Regions. That parliament was elected on 28 October 2012. The Russian Foreign Ministry at the time declared that the elections were held "peacefully, without any excesses and in line with generally accepted standards" and "confirmed Ukraine's commitment to democracy and the rule of law." The parliament which Russia called legitimate then can hardly be called illegitimate now.

Finally, Russian officials continue to allege that the Ukrainian parliament and government are dominated by "Nazis" and "fascists." However, in the presidential elections on May 25, the candidates whom Russia labeled as "fascists" received barely 1% of the votes. Ukraine's electorate clearly voted for unity and moderation, not separatism or extremism.

Russian Claims That NATO's Response Is Escalatory

Russian officials accuse NATO of escalating the crisis in Ukraine by reinforcing the defense of Allies in Eastern Europe. This is a striking display of double standards. It is Russia which is destabilizing Europe—not NATO.

Firstly, NATO's actions throughout the crisis have been proportionate to the situation, and defensive in nature. The Alliance has deployed additional aircraft to reinforce air policing missions, additional ships to the Baltic, Mediterranean and Black Seas, and additional troops to exercises on the territory of Eastern Allies.

All of these deployments are limited in scale and designed to reinforce defense. They have been prompted by the instability and unpredictability Russia has generated on our borders by its illegal invasion of a sovereign European country. NATO's actions cannot be presented as a potential offensive force. To describe them as such shows either ignorance or dishonesty. They are in line with NATO's international commitments, including the NATO-Russia Founding Act [a 1997 agreement to promote cooperation between Russia and NATO]. In the NATO-Russia Founding Act, NATO reiterates that:

> In the current and foreseeable security environment, the Alliance will carry out its collective defense and other missions by ensuring the necessary interoperability, integration, and capability

Russia's Accusations: Setting the Record Straight, North Atlantic Treaty Organization, July 1, 2014. Copyright ©2014 North Atlantic Treaty Organization.

> for reinforcement rather than by additional permanent stationing of substantial combat forces. Accordingly, it will have to rely on adequate infrastructure commensurate with the above tasks. In this context, reinforcement may take place, when necessary, in the event of defense against a threat of aggression and missions in support of peace consistent with the United Nations Charter and the OSCE governing principles, as well as [other international treaties]. . . . Russia will exercise similar restraint in its conventional force deployments in Europe.

Russia, on the other hand, has broken its international commitments, including basic principles in the NATO-Russia Founding Act, such as,

> refraining from the threat or use of force against each other as well as against any other state, its sovereignty, territorial integrity or political independence in any manner inconsistent with the United Nations Charter and with . . . [other international treaties] and the "respect for sovereignty, independence and territorial integrity of all states and their inherent right to choose the means to ensure their own security, the inviolability of borders and peoples' right of self-determination" as enshrined in [several international treaties].

Between March and May 2014, Russia had massed around 40,000 troops on Ukraine's border and threatened to invade Ukraine. As of 11 July 2014, Russia still has around 12,000 troops, tanks and artillery close to the Ukrainian border. Over the past months, Russia has also embarked on an unprecedented schedule of no-notice military exercises involving massive numbers of troops and heavy equipment. Russia should explain what its military plans are before it starts accusing others of posing a threat.

Secondly, all of NATO's deployments have taken place on NATO territory, with the intention to deter threats to NATO territory. Russia, on the other hand, has illegally annexed Crimea, allowed mercenaries and heavy weapons to flow across its border into Ukraine, and refused to condemn the aggressive and illegal actions of armed separatists in Ukraine, as it committed to do in Geneva in April. Recruiting efforts for separatist fighters are also expanding inside Russia.

NATO is showing strict respect of international borders and international commitments. Russia should do the same.

Russian Claims That the So-Called Referendum in Crimea Was Legal

Russian officials claim that the so-called referendum in Crimea on 16 March was legal.

The referendum was illegal according to the Ukrainian constitution, which states that questions "of altering the territory of Ukraine are resolved exclusively by an All-Ukrainian referendum." Crimea, as part of Ukraine, has the status of an autonomous republic, but any issues about its authority have to be resolved by the Ukrainian parliament (Article 134) and its constitution has to be approved by the Ukrainian parliament (Article 135).

The UN General Assembly on 27 March 2014 passed a non-binding resolution declaring the so-called referendum invalid. The European Union also does not recognize the alleged outcome. Additionally, the so-called referendum was organized in a matter of weeks by a self-proclaimed Crimean leadership that was installed by armed Russian military personnel after seizing government buildings. Obviously, any such fake referenda organized by self-appointed authorities who lack all democratic legitimacy are illegal and illegitimate.

It should be noted that Moscow never lodged a single complaint with any international body about the alleged discrimination of Russian-speaking citizens of Ukraine.

Russian Claim NATO's Continuation and Enlargement Threatens Russia

Russian officials say that NATO should have been disbanded at the end of the Cold War, and that the accession of new Allies from Central and Eastern Europe undermines Russia's security.

NATO was not disbanded after the Cold War because its members wanted to retain the insurance policy that had guaranteed security and stability in the transatlantic area and beyond. As the London Declaration of 1990 [by NATO's members] makes clear: "We need to keep standing together, to extend the long peace we have enjoyed these past four decades." Upholding the values that have always guided it, NATO became more than a powerful military Alliance: it became a political forum for dialogue and cooperation.

NATO has fulfilled the terms of Article 10 of the North Atlantic Treaty, which states that Allies "may, by unanimous agreement, invite any other European State in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty."

On six occasions, between 1952 and 2009, European countries made the choice to apply for membership based on a democratic process and respect for the rule of law. NATO Allies made the unanimous choice to accept them.

NATO and EU enlargement has helped the nations of Central and Eastern Europe to tackle difficult reforms, which were required prior to accession. It has helped their citizens enjoy the benefits of democratic choice, the rule of law, and substantial economic growth. These efforts have moved Europe closer to being whole, free, and at peace than at any other time in history.

Russia also subscribed to this vision in the Founding Act as well as other documents. It committed to "creating in Europe a common space of security and stability, without dividing lines or spheres of influence," and to "respect for sovereignty, independence and territorial integrity of all states and their inherent right to choose the means to ensure their own security."

Contrary to those commitments, Russia now appears to be attempting to recreate a sphere of influence by seizing a part of Ukraine, maintaining thousands of forces on its borders, and demanding, as Russian Foreign Minister Sergei Lavrov has stated, that "Ukraine cannot be part of any bloc."

On the Claim That NATO Wants to "Drag" Ukraine into NATO

NATO does not "drag" countries into the Alliance. NATO respects the right of every country to choose its own security arrangements. In fact, the Washington Treaty [that established NATO in 1949] specifically gives Allies the right to leave. Over the past 65 years, 28 countries have chosen freely to join NATO. Not one has asked to leave. This is not dragging, it's sovereign choice.

NATO's Open Door policy has been, and will always be, based on the free choice of European democracies. When in 2002 under President [Leonid] Kuchma Ukraine decided to pursue NATO membership, the Alliance took steps to help fulfill Ukraine's Euro-Atlantic aspirations. When in 2010 Ukraine decided to pursue a "non-bloc policy," NATO fully respected that choice. Russia's long-time assertion that NATO tried to force Ukraine into its ranks was, and remains, completely false.

Any decision for Ukraine to apply for membership would have to be taken by Ukraine, in line with its democratic rules. When Foreign Minister [Pavlo] Klimkin was in Brussels in July 2014, he made clear that NATO membership is not on the agenda. The government and people of Ukraine have other priorities. We respect their choices, Russia should do the same.

Claim That Russia Had to Act to Stop NATO from Basing Missiles and Ships in Sevastopol

This is total fantasy. NATO had no intention of deploying forces to Sevastopol. This was never discussed and there have never been any plans for that. The only one who talked about this ludicrous claim was [Russia's] President [Vladirmir] Putin. In fact, before the Ukraine crisis, the only NATO forces routinely present on the territory of Eastern European Allies were the NATO jets used in the Baltic States for the air policing mission.

On the contrary, the only country which had ships and troops in Sevastopol [a port in the Crimea] was Russia, under its agreement with Ukraine. And after the illegal takeover of Crimea, Russia stole most of the ships of the Ukrainian navy and installed additional anti-ship and anti-aircraft batteries to expand its military presence in the region.

Russian Claims That NATO Promised Not to Enlarge or Build Infrastructure in Eastern Europe

Russian officials claim that US and German officials promised in 1990 that NATO would not expand into Eastern and Central Europe, build military infrastructure near Russia's borders or permanently deploy troops there. No such pledge was made, and no evidence to back up Russia's claims has ever been produced.

Should such a promise have been made by NATO as such, it would have to have been as a formal, written decision by all NATO Allies. Furthermore, the consideration of enlarging NATO came years after German reunification. This issue was not yet on the agenda when Russia claims these promises were made. The key question Russia should answer is why so many countries, particularly those on its periphery, continue to aspire to join NATO.

Allegations about NATO pledging not to build infrastructure close to Russia are equally inaccurate. As noted above, in the Founding Act, NATO stressed that:

> In the current and foreseeable security environment, the Alliance will carry out its collective defense and other missions by ensuring the necessary interoperability, integration, and capability for reinforcement rather than by additional permanent stationing of substantial combat forces. Accordingly, it will have to rely on adequate infrastructure commensurate with the above tasks.

NATO has indeed supported the upgrading of military infrastructure, such as air bases, in the countries which have joined the Alliance, commensurate with the requirements for reinforcement and exercises. The process was transparent to all, including Russia. However, the only combat forces permanently stationed on the territory of the new members are their own armed forces.

Even before the Ukraine crisis, the only routinely visible sign of Alliance forces on the territory of new members were the NATO jets used in the Baltic States [Estonia, Latvia, and Lithuania] for the air policing mission. These minimal defensive assets cannot be described as substantial combat forces in the meaning of the Founding Act. By contrast, in 2007, Russia unilaterally suspended its compliance with and later on withdrew from the only comprehensive and verifiable arms control regime in Europe, the Treaty on Conventional Armed Forces in Europe.

Since the crisis, NATO has taken steps to increase situational awareness and bolster the defenses of our Eastern members. This, too, is entirely consistent with the Founding Act and is a direct result of Russia's destabilizing military actions.

Finally, the Act also states, "Russia will exercise similar restraint in its conventional force deployments in Europe." Russia's aggression against Ukraine is a flagrant breach of this commitment.

Russian Claims That NATO Missile Defense Is a Threat to Russia

Russia's arguments that NATO missile defense could undermine Russia's strategic deterrent are baseless. NATO's missile defense is neither designed nor directed against Russia. It is designed and located to defend NATO population and territories against threats from outside the Euro-Atlantic area.

Moreover, the Alliance has consistently sought cooperation with Russia on missile defense. At the Lisbon Summit of 2010, NATO Heads of State and Government "decided to develop a missile defence capability to protect all NATO European populations, territory and forces, and invited Russia to cooperate with us."

This was reiterated at the Chicago Summit in May 2012, where leaders underlined that NATO "remains committed to cooperation on missile defense in a spirit of mutual trust and reciprocity," and stated explicitly that NATO missile defense "will not undermine Russia's strategic deterrence capabilities." NATO also proposed a transparency regime including the creation of two NATO–Russia joint missile-defense centers. Russia has declined these offers.

These Summit declarations are more than political promises: they define NATO's policies. Rather than taking NATO up on cooperation, Russia has advanced arguments that ignore laws of physics as well as NATO's expressed policies. Independent Russian military experts have made clear that NATO's missile defense program could not pose any threat to Russia or degrade the effectiveness of its strategic deterrent forces. The Russian government has used missile defence as an excuse for accusations rather than an opportunity for partnership.

Russian Claims That the United States Is Disinterested in Europe and That the Alliance Is Not United

Russian officials claim that the United States is no longer interested in the security of Europe. This is simply false. Every single Ally is interested in Europe's security, and every single Ally is contributing.

Since the crisis began, U.S. soldiers have deployed to the Baltic States—alongside European troops. U.S. ships have sailed in the Baltic, Mediterranean and Black Seas, alongside European and Canadian vessels. U.S. aircraft have policed the skies of Eastern Europe, alongside European and Canadian planes. President Obama's announcement of a European Reassurance Initiative of up to 1 billion dollars to further reinforce NATO's collective defense underscores the United States' unwavering commitment to NATO.

The Alliance is also looking into long-term measures to enhance the security of all member states in view of Russia´s actions. Every single member of NATO is contributing to the Alliance's response to this crisis. There is no stronger proof of the unity of NATO—and the inaccuracy of Russia's claims.

NATO–Russia Relations

Russia claims that NATO has spent years trying to marginalize it internationally.

Since the early 1990s the Alliance has consistently worked to build a cooperative relationship with Russia on areas of mutual interest, and striven towards a strategic partnership.

Before the fall of the Soviet Union and the Warsaw Pact [between the Soviet Union and its East European allies], NATO began reaching out, offering dialogue in place of confrontation, as the London NATO Summit of July 1990 made clear. In the following years, the Alliance promoted dialogue and cooperation by creating [several]

new forums, open to the whole of Europe, including Russia.

As a sign of Russia's unique role in Euro-Atlantic security, in 1997 NATO and Russia signed the Founding Act on Mutual Relations, Cooperation and Security, creating the NATO–Russia Permanent Joint Council. In 2002 they upgraded that relationship, creating the NATO–Russia Council (NRC).

Since the foundation of the NRC, NATO and Russia have worked together on issues ranging from counter-narcotics and counter-terrorism to submarine rescue and civil emergency planning. No other partner has been offered a comparable relationship, nor a similar comprehensive institutional framework. Far from marginalising Russia, NATO has treated it as a privileged partner. By contrast, Russia has referred to NATO as a threat in its strategic documents.

Russian Criticism of the Legitimacy of NATO Military Actions—Kosovo

The NATO operation for Kosovo followed over a year of intense efforts by the UN and the Contact Group, of which Russia was a member, to bring about a peaceful solution. The UN Security Council on several occasions branded the ethnic cleansing in Kosovo and the mounting number of refugees driven from their homes as a threat to international peace and security. NATO's Operation Allied Force was launched to prevent the large-scale and sustained violations of human rights and the killing of civilians.

Following the air campaign, the subsequent NATO-led peacekeeping operation, KFOR, which initially included Russia, has been under UN mandate, with the aim of providing a safe and secure environment in Kosovo. This led to nearly ten years of diplomacy, under UN authority, to find a political solution and to settle Kosovo's final status.

The Kosovo operation was conducted following exhaustive discussion involving the whole international community dealing with a long-running crisis. In Crimea, with no evidence of a crisis and no attempt to negotiate any form of solution, Russia bypassed the whole international community, including the UN, and simply occupied a part of another country's territory.

Russian Claims That the Annexation of Crimea Was Justified by the Opinion of the International Court of Justice on the Independence of Kosovo

Russian leaders claim that the precedent for the so-called declaration of independence of Crimea was the advisory opinion of the International Court of Justice on the independence of Kosovo.

However, the court stated clearly that their opinion was not a precedent. The court said they had been given a "narrow and specific" question about Kosovo's independence, which would not cover the broader legal consequences of that decision.

The court highlighted circumstances in which claims for independence would be illegal. This would include if "they were, or would have been, connected with the unlawful use of force." An example of "an unlawful use of force" would be an invasion and occupation by a neighboring country—which is exactly what Russia has done.

Furthermore, the process leading to Kosovo's declaration of independence spanned years and included an extensive process led by the United Nations. Russian claims ignore all of these facts.

The North Atlantic Treaty Organization is a trans-Atlantic defense treaty that was established in 1949 and currently has 28 member countries, including the United States and Canada.



EXPLORING THE ISSUE



Was Russia's Intervention in Ukraine the Result of Western Aggression?

Critical Thinking and Reflection

1. Is NATO enlargement justified as a means of spreading democracy and security?
2. Are Russia's fears of NATO enlargement justified?
3. Is Russia becoming more authoritarian and will its foreign policy become correspondingly more aggressive?
4. Is the Russian foreign minister correct when he argues that Ukraine should not be part of any bloc (that it should be neutral)?

Is There Common Ground?

It is difficult to see common ground in this discussion. Those who seek to enlarge NATO believe that the cause of Russian aggression is Putin himself. The Russian relationship with the West has gone through ups and downs since the end of the Cold War, but the greatest deterioration in that relationship has occurred while Putin has sought to consolidate his personal power. That is why attempts to "reset" relations have always failed, as was the case with the Bush and Obama administrations, and it will undoubtedly be the case again with the Trump administration.

For more realist-minded observers, however, the failure of these resets has been due more to the West's constant attempts to expand NATO and conduct regime change. Russia has witnessed the U.S. intervene (directly and indirectly) in Afghanistan, Iraq, Libya, and Syria over the past 20 years and already perceives similar Western interference in its own region. Georgia and Ukraine have sought NATO membership and Russia did not expect NATO to expand at all after the Cold War, never mind to the states of the former Soviet Union. Trying to reset relations has thus proven futile while this strategic threat persisted.

If there is common ground, it may be in recognizing that Putin is not another Stalin or Hitler bent on world domination or even on recreating the old Soviet Union. Recognizing this may at least allow for a reduction in tensions and provide room for a more nuanced diplomacy. Putin's present popularity in Russia may be fed by US-Russian tensions, so avoiding taking the bait and legitimating his leadership by further expanding NATO may be the best policy. However, even to suggest this leaves one open to accusations of appeasement, but appeasement sometimes works. Do you agree in this case?

Additional Resources

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Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Is China Being the Aggressor in the Issue of the Disputed Island in the Pacific Ocean?

YES: Chuck Hagel, from "The United States' Contribution to Regional Stability," *The International Institute for Strategic Studies* (2014)

NO: Wang Guanzhong, from "Major Power Perspectives on Peace and Security in the Asia-Pacific," *The International Institute for Strategic Studies* (2014)

Learning Outcomes

After reading this issue, you will be able to:

- Elaborate on the background to the dispute between China and its neighbors over various islands and ocean regions in the far eastern Pacific Ocean.
- Explain the position of the United States on the disputes.
- Comment on how the disputes are affecting military spending and the foreign policy of the countries in the region.

ISSUE SUMMARY

YES: Chuck Hagel, the U.S. secretary of defense, tells delegates gathered in Singapore in 2014 at the Shangri-La Dialogue that China has undertaken destabilizing, unilateral actions in aggressively asserting its claims to significant areas in the South China Sea and the East China Sea and to many of the islands in them, the resources in and under those areas, and even to maritime and aviation transit through and over them. The Shangri-La Dialogue is a series of conferences that has been held annually since 2002 and is sponsored by the International Institute for Strategic Studies (IISS), a private research and advocacy organization headquartered in London. The conference brings together representatives of the defense ministries of countries located in or bordering on the Pacific Ocean and also several European countries including France, Germany, and Great Britain to discuss security in the Pacific region.

NO: Wang Guanzhong, a lieutenant general and deputy chief of staff of the People's Liberation Army, China, responds to Secretary of Defense Hagel's speech and a similar, if less blunt, speech by Prime Minister Shinzo Abe of Japan by condemning them for making unwarranted accusations against China and thereby provoking and challenging China. General Wang asserts that China is ready to cooperate with other countries in the greater Pacific region to promote regional and global peace and development.

China has a history as one of the oldest and at times most powerful countries (and empires) in the world. During the Yuan dynasty (1271–1368) and most of the Ming dynasty (1368–1644), China was also arguably the world's most powerful empire, dominating most of Asia.

However, China's power compared with Europe's began to ebb, with the Industrial Revolution beginning in Europe in the mid-1700s playing a major role. During the 1800s the European powers, joined by the United States in the last years of that century, increasingly dominated China. The Chinese consider these years a period

of humiliation. Their resentment was epitomized by the Boxer Rebellion (1898–1900), during which Chinese militias tried to drive out foreigners from their country but were ultimately defeated by an international force that included troops from Austria-Hungary, France, Germany, Great Britain, Italy, Japan, Russia, and the United States.

China's road back began in 1911 when Nationalist forces under Sun Yatsen overthrew the last emperor. Internal struggles and the invasion by Japan (1931–1945) blocked much advance in China's economic and political power until the Communists under Mao Zedong defeated the Nationalists under Chiang Kai-shek, who fled and set up the remnants of the Nationalist government on Formosa (Taiwan) as the Republic of China. Gradually, Communist China (the People's Republic of China, PRC) built up its strength. Military power came first. China's military was limited by obsolete weapons, but it was the world's largest military force, with as many as 4.2 million troops. China also sought to acquire nuclear weapons and delivery capability, and succeeded in that quest by the mid-1960s. Basic changes in China's global status began in the 1970s. In 1971, the United Nations changed the rightful owner of China's seat, including its position as a permanent member of the Security Council, from the Nationalist government on Taiwan to the PRC. The following year, the United States relaxed its hostility, and President Richard Nixon visited China. In 1979, President Jimmy Carter shifted U.S. diplomatic recognition of the "legitimate" government of China from the Taiwan government to the PRC government in Beijing.

Additionally, the two great leaders of the Communist Revolution and government, Premier Zhou Enlai and Communist Party Chairman Mao Zedong, both died in 1976. This opened the way for a less ideological approach to China's domestic and foreign policy. Since then, China has changed rapidly. It retains a communist government, but it has adopted many of the trappings of a capitalist economy. Where once China rejected global trade and other international economic organizations, it has now embraced them.

How powerful China has become economically depends on how you count its gross domestic product (GDP). On a per capita basis in 2013, it was only $6,900 compared to $53,000 for the United States. But on an overall basis, China's 2013 GDP was $9.2 trillion, second in the world only to that of the United States ($16.8 trillion).

China's rapidly growing and modernizing economy has allowed it to continue upgrading its military technology. China is also second among countries in military spending. The country's 2013 official defense budget was $188 billion dollars, but there is little doubt that actual spending is higher than that, with some estimates putting it nearer $225 billion. Still the amount, whatever it is, falls far short of the 2013 U.S. defense budget ($640 billion). It is also noteworthy that China's military spending has been rising rapidly, increasing 12.2 percent between 2013 and 2014 alone. This is part of a worrisome "arms race" in the Asian region. While global defense spending controlled for inflation declined in 2013, it increased 3.6 percent in the region.

China's growing economic and military power has provided it with the foundation to continue to increase its position as a global and, even more, as a regional power. China claims that it owns or has authority over parts of the eastern Pacific Ocean that are, in some part, claimed by Brunei, Japan, Indonesia, Malaysia, Philippines, Taiwan, and Vietnam. China's assertion of the right to control fishing rights and activity in and even transit through or over other areas has also created friction with other countries, including the United States, that consider some of the areas to be international waters. The year 2014 saw increased tension in the area as China and other claimant countries asserted their rights by using their naval forces to assert control, and the United States used its naval forces to assert its right to unimpeded transit.



YES

Chuck Hagel

The United States' Contribution to Regional Stability

Last year, I participated in this dialogue during my first visit to the Asia-Pacific as [U.S.] Secretary of Defense. As a United States Senator I have been here many times. I spoke about the United States of America's firm commitment—firm commitment to this region's security and economic prosperity, and to supporting its extraordinary progress through our strategic rebalance.

Today, I return on my fifth trip to the region as Secretary of Defense in about a year, again reaffirming that America's commitment to the Asia-Pacific is enduring.

In his remarks at West Point earlier this week, President [Barack] Obama laid out the next phase of America's foreign policy—particularly as we come out of 13 years of war in Iraq and Afghanistan. He made clear we will balance our diplomacy, our development assistance, and military capabilities, and that we will strengthen our global partnerships and alliances.

That is how America is implementing its strategy of rebalancing to the Asia-Pacific. The rebalance is not a goal, not a promise, or a vision—it's a reality. Over the last year, President Obama launched comprehensive partnerships with Vietnam and Malaysia, held a summit with Chinese President Xi [Jinping], and last month visited three of our five regional treaty allies—Japan, South Korea, and the Philippines—as well as Malaysia. In the Philippines, he and President Aquino announced a new Enhanced Defense Cooperation Agreement on the rotational presence of U.S. forces—the most significant milestone for our alliance in over a decade.

Under President Obama's leadership, the administration is also making progress in negotiating the Trans-Pacific Partnership trade agreement. Our State Department is increasing foreign assistance funding to the Asia-Pacific region and expanding assistance for maritime capacity-building in Southeast Asia.

Diplomatic, economic, and development initiatives are central to the rebalance, and to our commitment to help build and ensure a stable and prosperous region. But prosperity is inseparable from security, and the Department of Defense will continue to play a critical role in the rebalance—even as we navigate a challenging fiscal landscape at home.

A central premise of America's strategy in the Asia-Pacific is our recognition that, in the 21st century, no region holds more potential for growth, development, and prosperity than this one.

But even while advances in human rights, freedom, democracy, technology, and education are all yielding better lives and futures for all people; and even as more nations are stepping forward to contribute to regional security, the Asia-Pacific is also confronting serious threats.

We see ongoing territorial and maritime disputes in the South and East China Seas; North Korea's provocative behavior and its nuclear weapons and missile programs; the long-term challenge of climate change and natural disasters; and the destructive and destabilizing power of cyber attacks.

Continued progress throughout the Asia-Pacific is achievable, but hardly inevitable. The security and prosperity we have enjoyed for decades cannot be assured unless all nations—all our nations—have the wisdom, the vision, and will to work together to address these challenges.

As President Obama said earlier this week, "America must always lead on the world stage. If we don't, no one else will." He went on to say that, the "question is not whether America will lead, but how we will lead . . . to help ensure peace and prosperity around the globe." Today, I want to highlight four broad security priorities that the United States, as a Pacific power, is advancing in partnership with friends and allies throughout the Asia-Pacific:

- First, encouraging the peaceful resolution of disputes; upholding principles including the freedom of navigation; and standing firm against coercion, intimidation, and aggression;
- Second, building a cooperative regional architecture based on international rules and norms;

Hagel, Chuck. "The United States' Contribution to Regional Stability," *The International Institute for Strategic Studies*, May 2014. Copyright ©2014 by The International Institute for Strategic Studies. Used with permission.

- Third, enhancing the capabilities of our allies and partners to provide security for themselves and the region; and,
- Fourth, strengthening our own regional defense capabilities.

One of the most critical tests facing the region is whether nations will choose to resolve disputes through diplomacy and well-established international rules and norms . . . or through intimidation and coercion. Nowhere is this more evident than in the South China Sea, the beating heart of the Asia-Pacific and a crossroads for the global economy.

China has called the South China Sea "a sea of peace, friendship, and cooperation." And that's what it should be.

But in recent months, China has undertaken destabilizing, unilateral actions asserting its claims in the South China Sea. It has restricted access to Scarborough Reef, put pressure on the long-standing Philippine presence at the Second Thomas Shoal, begun land reclamation activities at multiple locations, and moved an oil rig into disputed waters near the Paracel Islands.

The United States has been clear and consistent. We take no position on competing territorial claims. But we firmly oppose any nation's use of intimidation, coercion, or the threat of force to assert those claims.

We also oppose any effort—by any nation—to restrict overflight or freedom of navigation—whether from military or civilian vessels, from countries big or small. The United States will not look the other way when fundamental principles of the international order are being challenged. We will uphold those principles. We made clear last November that the U.S. military would not abide by China's unilateral declaration of an Air Defense Identification Zone in the East China Sea, including over the Japanese-administered Senkaku Islands. [China calls them the Diaoyu Islands.] And as President Obama clearly stated in Japan last month, the Senkaku Islands are under the mutual defense treaty with Japan.

All nations of the region, including China, have a choice: to unite, and recommit to a stable regional order, or to walk away from that commitment and risk the peace and security that have benefitted millions of people throughout the Asia-Pacific, and billions around the world. The United States will support efforts by any nation to lower tensions and peacefully resolve disputes in accordance with international law.

We all know that cooperation is possible. Last month, 21 nations signed the Code for Unplanned Encounters at Sea—an important naval safety protocol. ASEAN [the 10-member Association of South East Asian Nations] and China are negotiating a Code of Conduct for the South China Sea—and the United States encourages its early conclusion. Nations of the region have also agreed to joint energy exploration; this month, the Philippines and Indonesia resolved a longstanding maritime boundary dispute; and this week, Taiwan and the Philippines agreed to sign a new fisheries agreement. China, too, has agreed to third-party dispute resolution in the World Trade Organization; peacefully resolved a maritime boundary dispute with Vietnam in 2000; and signed ASEAN's Treaty of Amity and Cooperation.

For all our nations, the choices are clear, and the stakes are high. These stakes are not just about the sovereignty of rocky shoals and island reefs, or even the natural resources that surround them and lie beneath them. They are about sustaining the Asia-Pacific's rules-based order, which has enabled the people of this region to strengthen their security, allowing for progress and prosperity. That is the order the United States—working with our partners and allies—that is the order that has helped underwrite since the end of World War II. And it is the order we will continue to support—around the world, and here in the Asia-Pacific.

This rules-based order requires a strong, cooperative regional security architecture. Over the last year, the United States has worked with Asia-Pacific nations to strengthen regional institutions like ASEAN and the ADMM+ [meetings of the ASEAN defense minister plus counterparts from eight other countries, including the United States], which I attended last year in Brunei. This regional architecture is helping to develop shared solutions to shared challenges, building strong and enduring ASEAN security community, and ensuring that collective, multilateral operations are the norm, rather than the exception.

A common picture of the region's maritime space could help deter provocative conduct, and reduce the risk of accidents and miscalculation. So I am asking Admiral Sam Locklear, who leads the United States Pacific Command, to host his regional counterparts to discuss concrete ways to establish greater maritime security awareness and coordination.

The United States is also reaching out to China. We're reaching out to China because we seek to expand prosperity and security for all nations of this region. As I underscored in Beijing last month during my visit to China, the United States will continue to advance President Obama and President Xi's shared commitment to develop a new model of relations—a model that builds cooperation, manages competition, and avoids rivalry. To help develop this model, we are increasing our military-to-military

engagement with China through our joint exercises, exchanges, and other confidence-building measures that can help improve communication and build understanding between our forces. Chairman of the [U.S.] Joint Chiefs General [Martin] Dempsey and I have led this effort, and we will continue to focus on building this new military-to-military model. And I am glad General Dempsey is here to help us today accomplish more progress in this area.

The U.S.-China military-to-military dialogue has a long way to go. But I think we've been encouraged by the progress we've made, and continue to make. Our dialogue is becoming more direct, more constructive . . . getting at the real issues and delivering more results. As we expand this dialogue, the United States also supports a sustained and substantive exchange with China on cyber issues. Although China has announced a suspension of the U.S.-China Cyber Working Group, we will continue to raise cyber issues with our Chinese counterparts, because dialogue is essential for reducing the risk of miscalculation and escalation in cyberspace.

The Asia-Pacific's shifting security landscape makes America's partnerships and alliances indispensable as anchors for regional stability. As we work to build a cooperative regional architecture, we are also modernizing our alliances, helping allies and partners develop new and advanced capabilities, and encouraging them to work more closely together.

In Southeast Asia, that means continuing to help nations build their humanitarian and disaster relief capabilities, and upgrade their militaries. One important example is our first-ever sale of Apache helicopters to Indonesia, which I announced during my visit to Jakarta last year. This sale will help the Indonesian Army defend its borders, conduct counter-piracy operations, and control the free flow of shipping through the Straits of Malacca. We are also providing robust assistance to the Philippines' armed forces, to strengthen their maritime and aviation capabilities. In Northeast Asia, our capacity-building efforts include strengthening Allies' capabilities with sophisticated aircraft and ballistic missile defense—especially to deter and defend against provocation by Pyongyang.

We signed that agreement. We are also making significant progress in building a robust regional missile defense system. Last month in Tokyo, I announced that the United States will deploy two additional ballistic missile defense ships to Japan—a step that builds on the construction of a second missile defense radar site in Japan, and the expansion of America's ground-based interceptors in the continental United States, which I reviewed this week in Alaska during my trip to Singapore.

Modernizing our alliances also means strengthening the ties between America's allies, enhancing their joint capabilities—such as missile defense—and encouraging them to become security providers themselves. Yesterday, I held a trilateral meeting with my counterparts from Australia and Japan, and today I will host another trilateral meeting with my counterparts from Korea and Japan.

The enhanced cooperation America is pursuing with these close allies comes at a time when each of them is choosing to expand their roles in providing security around the Asia-Pacific region, including in Southeast Asia. Seven decades after World War II, the United States welcomes this development. We support South Korea's more active participation in maritime security, peacekeeping, and stabilization operations. We also support Japan's new efforts—as Prime Minister Abe described very well last night—to reorient its Collective Self Defense posture toward actively helping build a peaceful and resilient regional order.

To complement these efforts, the United States and Japan have begun revising our defense guidelines for the first time in more than two decades. We will ensure that our alliance evolves to reflect the shifting security environment, and the growing capabilities of Japan's Self-Defense Forces.

The United States also remains committed to building the capacity of allies and partners in the region through as many as 130 exercises and engagements, and approximately 700 port visits annually. And across the Asia-Pacific region, as part of the rebalance, the United States is planning to increase Foreign Military financing by 35%, and military education and training by 40% by 2016.

Next month, the United States will host its annual Rim of the Pacific exercise, the world's largest maritime exercise that will feature for the first time a port visit by a New Zealand naval ship to Pearl Harbor in more than 30 years, and it will include Chinese ships for the first time. Beyond capacity-building efforts, a stable and peaceful regional order depends on a strong American military presence across the Asia-Pacific region . . . a presence that enables us to partner with our friends and allies, and help deter aggression. We are no strangers to this part of the world. America has been a Pacific power for many years. Our interests lie in these partnerships and this region.

Today, America has more peacetime military engagement in the Asia-Pacific than ever before. I want to repeat: today, America has more peacetime military engagement

in the Asia-Pacific than ever before. And America's strong military presence—and our role in underwriting the region's security—will endure. Our friends and allies can judge us on nearly seven decades of commitment and history of commitment. That history makes clear, America keeps its word. America's treaty alliances remain the backbone of our presence in the Asia-Pacific, and our friends and allies have seen our significant steps in recent years to enhance our posture in Northeast Asia, to expand our partnerships in Southeast Asia, and to ensure our forces can operate effectively regardless of other nations' capabilities.

In the coming years, the United States will increase its advanced capabilities that are forward-stationed and forward-deployed in the entire region, particularly as we draw down our forces in Afghanistan. And we will ensure that we sustain our freedom of action in the face of disruptive new military technologies.

Finally, to ensure that the rebalance is fully implemented, both President Obama and I remain committed to ensuring that any reductions in U.S. defense spending do not come—do not come—at the expense of America's commitments in the Asia-Pacific.

Here, and around the world, a peaceful, prosperous, and durable order will not sustain itself. The nations of the Asia-Pacific must come together to accomplish this.

We must support the peaceful resolution of disputes . . . and oppose intimidation and coercion no matter where they are.

We must build a cooperative regional security architecture that builds trust and confidence. And we must continue to develop, share, and maintain advanced military capabilities that can adapt to rapidly growing challenges.

From Europe to Asia, America has led this effort for nearly seven decades, and we are committed to maintaining our leadership in the 21st century. Across this region, and across the globe, the United States has been—and always will be—committed to a peaceful and prosperous international order that rests not merely on America's own might, but on our enduring unity and partnership with other nations.

Chuck Hagel is the U.S. secretary of defense and a former U.S. Democratic senator from Nebraska (1997–2009). He received a BA degree in history from the University of Nebraska at Omaha.



Wang Guanzhong

NO

Major Power Perspectives on Peace and Security in the Asia-Pacific

Today, I'd like to take the opportunity to share with you the values, policies and practices of China for maintaining peace and security in the Asia-Pacific region.

Not long ago, the fourth Summit of the Conference on Interaction and Confidence-Building Measures in Asia was held in Shanghai, China. At the Summit, Chinese President Xi Jinping put forth the security concept for Asia featuring common, comprehensive, cooperative and sustainable security. This concept, which is a profound summary of the Asian historical experiences as well as the cherished aspiration for Asia's future, has been widely acclaimed by the Asian countries. Asia today is in a critical period of development. Asia is increasingly becoming a community of common interest, destiny and responsibility. The stability of Asia is a blessing for world peace and the rejuvenation of Asia is a boon for world development.

The security of China is closely linked to that of Asia. China advocates and implements the security concept for Asia in real earnest, and stands ready to work with other countries to pursue Asian security that is established, shared by, and win-win to all. China is a constructive, proactive and positive force for Asia's peace and security.

China pursues the path of peaceful development. Peaceful development is a strategic choice as well as a long-term and abiding strategy made by China, based on its historical and cultural traditions, historical experiences, lessons learned in the rise of major powers in the past, the reality of our time and the fundamental interests of China. China sticks to open development, cooperative development and win-win development. China strives for self-development through maintaining a peaceful international environment, and in turn contributes to regional and world peace with its own development. China is committed to building a harmonious Asia as well as an amicable world of lasting peace and common prosperity. China will never contend for or seek hegemony and foreign expansion. China adheres to peaceful development, which is its major contribution to security in Asia. The tremendous achievements of China's peaceful development constitute a positive factor of critical importance to the security of Asia.

China upholds the banner of fairness and justice. China believes that all countries, regardless of size, wealth or strength, should have the equal rights to independently choose their own social systems and development paths. We need to learn from each other to offset our own shortcomings and oppose interference in other countries' internal affairs. All countries should enjoy equal participation in regional security affairs. We need to strengthen coordination on the basis of mutual respect, and oppose attempt by any country to dominate regional security affairs. All countries should respect and accommodate the legitimate security concerns of others and enjoy common security through mutual accommodation. We oppose the practices of flexing up military alliances against a third party, resorting to the threat or use of force, or seeking so-called absolute security of one's own at the cost of the security of others.

China advocates dialogue and cooperation. China upholds that all countries should enhance strategic mutual trust, reduce misgivings and coexist in harmony through dialogue and communication. We should continuously strengthen and expand areas of cooperation, take innovative approaches, and seek peace and security through cooperation. All countries should respect each other's sovereignty, independence and territorial integrity, and resolve disputes peacefully through negotiations.

China stands for coordinated progress of security and development. In China's perspective, development lays the foundation for security, which in turn provides the conditions for development. Development is the most important security and the master key to resolving Asia's security issues. China pursues a neighborhood diplomacy that aims at bringing harmony, security and prosperity to its neighbors. China practices the principles of amity, sincerity, mutual benefit and inclusiveness. We work to promote the sound interaction between regional

Guanzhong, Wang. "Major Power Perspectives on Peace and Security in the Asia-Pacific," *The International Institute for Strategic Studies*, June 2014. Copyright ©2014 by The International Institute for Strategic Studies. Used with permission.

economic cooperation and security cooperation, and to maintain both traditional and non-traditional security in a coordinated way. In 2013, China contributed nearly 30% of the world's economic growth and over 50% of the growth in Asia. China will continue to promote sustainable security through sustainable development, and work together with other countries for lasting peace and prosperity in the region.

China always pursues a defense policy that is defensive in nature. The PLA [People's Liberation Army] is endeavoring to contribute to maintaining regional security.

We actively conduct friendly military exchanges and cooperation with countries in the Asia-Pacific. China's military-to-military cooperation with other Asia-Pacific countries is showing unprecedented dynamism. We have established defense consultation and dialogue mechanisms with 13 neighboring countries. In recent years, we have held over 50 joint exercises and drills with other Asia-Pacific countries. A sound momentum has been witnessed in high-level visits, professional exchanges and personnel training. Overall, we are enjoying military cooperation in the Asia-Pacific that covers all dimensions, broad areas and multiple levels. We continue to add to the security contents of the comprehensive strategic coordinative partnership with Russia, build towards a new model of military-to-military relationship with the United States, and enhance friendly military security cooperation with India and other major Asia-Pacific countries. The robust military cooperation among major powers plays an important role in maintaining regional security.

We extensively participate in regional multilateral defense and security cooperation. We are actively engaged in security cooperation within Shanghai Cooperation Organization, the Conference on Interaction and Confidence-Building Measures in Asia, ADMM-plus, the ASEAN Regional Forum and China-ASEAN framework. We make joint efforts to fight terrorism, extremism and separatism, conduct disaster relief operations, safeguard the security of land and sea routes and promote a security architecture in line with the common interests of regional countries. Not long ago, we successfully hosted the biennial meeting of the Western Pacific Naval Symposium. Participants of the meeting agreed on the revised version of the Code for Unalerted Encounters at Sea, contributing to the prevention of accidents at sea in the region.

We are committed to properly handling disputes over territory, sovereignty and maritime rights and interests. China has settled land border demarcation with 12 out of 14 of its neighbors and completed the delimitation of Beibu Gulf with Vietnam. The PLA has set up 64 border meeting stations. Over 2,000 meetings were held between Chinese and neighboring border troops in these stations in 2013. We are actively engaged in maintaining maritime security and stability in the neighboring area. In 2002, China and ASEAN countries signed the Declaration on the Conduct [DOC] of Parties in the South China Sea, and jointly set forth the principle that all disputes over territory and jurisdiction should be resolved peacefully through friendly consultation and negotiations between sovereign states directly involved in the disputes. The PLA actively supports the implementation of the DOC and pushes forward the consultation on the Code of Conduct on the South China Sea, with a view to maintaining security and stability in the South China Sea. While firmly safeguarding its sovereignty and legitimate interests, China has demonstrated utmost sincerity and patience in its commitment to settling disputes peacefully through consultations and negotiations with parties involved. China has never threatened to use force, and has never taken provocative actions. We will never accept provocation by others under the pretext of "Proactive Contribution to Peace" that stirs up tension for their selfish interests.

I would like to depart a bit from my prepared script and share some of my perspectives on the speeches of [Japan's] Prime Minister [Shinzo] Abe and [U.S.] Secretary [of Defense Chuck] Hagel [earlier this week] during the Dialogue. Initially I only planned to deliberate on China's policies and make proposals in my speech, not to debate or argue with others. But, unfortunately, after hearing their speeches, I have to offer some comments.

After Mr. Abe's speech [echoing the tone of Hagel's speech in the yes article], a foreign friend attending that session advised me to "be patient." After Mr. Hagel's speech, he again advised me to "be patient." He said that, as for where a country is heading for, what matters is action rather than rhetoric. I believe that was well and correctly said. But today, I have to apologize to this friend of mine that I still have to say a few words in spite of his two-time advice. I will only make a few remarks, in contrast with the lengthy remarks by Mr. Abe and Mr. Hagel to condemn China. I have two considerations. First, as a Chinese proverb goes, it is not polite not to reciprocate. Second, this dialogue is meant to be a forum for everyone to discuss and speak out. And truth can emerge from discussions and debate. Since Mr. Abe and Mr. Hagel have voiced their views about China, I would like to comment on their views, as a way of discussion.

I think the Chinese delegation, the other Chinese as well as many foreign friends attending that session would

share my thoughts that the remarks of Mr. Abe and Secretary Hagel staged provocations to China. A foreign friend of mine told me that it was unimaginable for Japanese Prime Minister Shinzo Abe and US Secretary of Defense Mr. Chuck Hagel to make such unwarranted accusations against China. He was right. Those remarks were totally beyond my expectation.

I feel that the speeches of Mr. Abe and Mr. Hagel have been pre-coordinated. They supported and encouraged each other in provoking and challenging China, taking advantage of being the first to speak at the Dialogue [Abe delivered the keynote address, opening the conference]. The focus of Mr. Abe's speech was on China, although he did not name China openly. No matter whether he named China or not and how he tried to whitewash his speech, I believe the entire audience understood that he was targeting China. Mr. Hagel also focused his remarks on China and the entire audience could feel it. Mr. Abe, overtly or covertly, explicitly or implicitly and directly or indirectly condemned China. Mr. Hagel was more frank and straightforward when he made unwanted accusations against China. As for their different approaches and attitude, I would say I prefer those of Mr. Hagel. If you have something to say, say it directly. As an invited government leader, Mr. Abe is supposed to promote peace and security of the Asia-Pacific region with his constructive ideas in line with the principles of the Shangri-La Dialogue. Instead, in violation of those principles, he was trying to stir up disputes and trouble. I do not think this is acceptable or in agreement with the spirit of the Dialogue. Mr. Hagel was more outspoken than I expected. And I personally believe that his speech is a speech with tastes of hegemony, a speech with expressions of coercion and intimidation, a speech with flaring rhetoric that ushers destabilizing factors into the Asia-Pacific to stir up trouble, and a speech with unconstructive attitude. Therefore, one can judge from the two speeches, as well as Mr. Abe and Mr. Hagel's deeds: who is really stirring up trouble and tension in the region and who is initiating disputes and spat? China has never initiated disputes over territorial sovereignty and the delimitation of maritime boundary. China only takes countermeasures against others' provocation. Moreover, China has never initiated provocations on any bilateral or multilateral occasions or at the Shangri-La Dialogue. Who has initiated the ongoing debate? This is well-known to all. Second, from the speeches of Mr. Abe and Mr. Hagel, we know who is really assertive. Assertiveness has come from the joint actions of the United States and Japan, not China.

Such additional comments are simply my passive, reactive and minimum response. Now I will come back to my prepared speech.

Ladies and Gentlemen,

The PLA is ready to work with other militaries to make further contribution to regional and global peace and development. To that end, I would like to make the following proposals:

1. To Promote Mutual Strategic Trust by Deepening Dialogue and Exchanges. We will continue to work with regional countries to carry out in-depth bilateral and multilateral security dialogues and exchanges, and we welcome senior defense officials and scholars of regional countries to join us at the Xiangshan Forum in Beijing in October. China will continue to step up dialogue, communication and coordination with ASEAN countries in the defense and security areas and support the development of the ASEAN Community. Before long, China's State Councilor and Defense Minister General Chang Wanquan invited defense ministers of ASEAN countries to China in 2015 for a Special China-ASEAN Defense Ministers' Meeting. We expect the meeting to achieve significant results.

2. To Support Common Development by Strengthening Security Cooperation. China has proposed to work with regional countries to build a Silk Road Economic Belt and a 21st Century Maritime Silk Road. The two major cooperation initiatives offer new opportunities for China and regional countries to achieve common development. Common development cannot be made without a secure environment. The building of the Economic Belt and the Maritime Silk Road has to be driven by two wheels—development and security. The PLA is ready to work with regional countries to strengthen practical cooperation in counter-terrorism, disaster relief, protection of sea lines of communication and other fields, thus ensuring common prosperity of countries along the Economic Belt and the Maritime Silk Road.

3. To Jointly Tackle Challenges by Promoting Disaster Relief Cooperation. The Asia-Pacific is prone to various disasters. This year, in order to improve regional capacity building, we have arranged five bilateral and multilateral joint disaster relief exercises and drills of all services with regional countries.

4. To Maintain Maritime Security by Highlighting Maritime Cooperation. The ocean serves the common interests of all Asia-Pacific countries. It is therefore the shared responsibility of all to strengthen maritime cooperation and maintain maritime security. China will continue to deepen multi-faceted maritime security cooperation with its regional partners through joint exercises, ship visits and maritime liaison mechanisms.

5. To Effectively Manage Differences by Establishing Security Mechanisms. In order to maintain regional

security and stability, it is crucial to properly manage differences, ensure timely communication, and dispel misperceptions and miscalculations.

Ladies and Gentlemen,

Peace does not come easily, and security should be cherished above all. Next year marks the 70th Anniversary of the victory of the world's anti-Fascist war. China will work with all other countries to safeguard the fruits of victory of the Second World War as well as the post-war international order. We will never allow the ruthless Fascist and militarist aggressions to stage a comeback. Major countries shoulder major responsibilities for maintaining security and stability of the Asia-Pacific, while medium and small countries can also play a constructive role. As a responsible major country, China is ready to join hands with all other Asia-Pacific countries to achieve mutual benefit and win-win results. Let us work together to create a better future for the Asia-Pacific region.

Wang Guanzhong is a lieutenant general in and deputy chief of staff of China's People's Liberation Army. He is also a member of the Chinese Communist Party's Central Committee.



EXPLORING THE ISSUE



Is China Being the Aggressor in the Issue of the Disputed Island in the Pacific Ocean?

Critical Thinking and Reflection

1. Within the United States and most other countries, land claim disputes would be submitted to and adjudicated by the country's courts. Moreover, even disappointed claimants would have to abide by the courts' decisions. If losing parties did not, the countries' law enforcement authorities would enforce the decisions. For the most part, that is not how things work in international affairs. There are no central enforcement authorities, and what international courts there are have limited jurisdiction. The United States and many other countries, for example, either do not recognize the jurisdiction of the UN's International Court of Justice (ICJ) or reserve the right to ignore its rulings. Would the world work better if all countries granted authority to the ICJ and agreed to abide by its decisions, whether favorable or not? Would you support that position for your own country?
2. China probably has the military power to control most of the areas it claims, except those islands in dispute with Japan. Beyond that the United States is the only country capable of countering Chinese forces in the disputed regions. Would you support U.S. naval action to defend the disputed areas? What U.S. interests are at stake?
3. Would it be wise for the United States to try to restrain China's power and/or build alliances, weapons systems, and other measures to counterbalance it by supplying weapons and support to other counties in the region and by encouraging Japan to significantly rearm?

Is There Common Ground?

There is common ground, but it will be difficult to find. One of many difficulties is that the disputes are rooted in part in national pride. This is especially true for China. Like Russia and other great powers that have fallen on hard times in the past, recovery brings with it an urge to reclaim the status of global or regional power. Part of that is the frequent assertion of a sphere of influence over nearby areas. This is akin to the Monroe Doctrine, which since 1823 has asserted "as a principle . . . the rights and interests of the United States" in the rest of the Western Hemisphere. Persuading China to be an "equal" in Asia contradicts the urge of great powers to claim their sphere of influence. A second problem is that some of the disputed areas have or are thought to have important resources. Oil is most notable, but natural gas, various minerals, and fish stocks are also important. Third, as noted in the critical thinking section, there is no widely accepted international dispute resolution mechanism, such as a court system, operating in the world today, nor is there an effective enforcement capability or agency. In the end, some accommodation may be reached because the countervailing military forces and the economic, human, and other costs of war deter China and the other claimants from using force. The United States and China, for instance, have huge sums invested in one another through ownership of each other's companies, real estate, stocks, government and private bods, and other investment vehicles. China's cumulative investment in the United States was $1.7 trillion in 2013, and Americans have hundreds of billions of dollars invested in China. Adding to those sums, China–U.S. annual trade in goods and services in 2014 was well over a half trillion dollars. Warfare between the two economic behemoths would be a financial disaster for both no matter who prevailed.

But international relations are not driven fully by logic, and a "roll of the iron dice" could occur. That is a phrase used by German Chancellor Theobald von Bethmann-Hollweg in 1914 to describe the gamble Germany was taking in 1914 during a crisis in Europe. It was a poor bet, and the chancellor crapped out. World War I ensued; 16.5 million soldiers and civilians died; Germany was defeated.

Additional Resources

Shambaugh, David (2014). *China Goes Global: The Partial Power* (Oxford University Press)

One of the several capable introductory studies that would be helpful.

Scobell, Andrew, and Nathan, Andrew J. (October 2012). "China's Overstretched Military," *The Washington Quarterly* (35/4: 135–148)

A less worrisome view of China's military than given by Wortzel below.

Wortzel, Larry M. 2013). *The Dragon Extends Its Reach: Chinese Military Power Goes Global* (Potomac Books)

The title explains Wortzel's point of view.

Zhang, Biwu (2012). *Chinese Perceptions of the U.S.: An Exploration of China's Foreign Policy Motivations* (Lexington Books)

A recent study of China's views of the United States.

Internet References . . .

China's Maritime Disputes (2013)

A good overview of the maritime regions in dispute including some video material is available of the website of the Council on Foreign Relations.

www.cfr.org/asia-and-pacific/chinas-maritime-disputes/p31345#!/.

"Q&A: South China Sea Dispute"

An informative background article from May 2014 by the BBC.

www.bbc.com/news/world-asia-pacific-13748349 (May 8, 2014)

Shangri-La Dialogue

For more on the conference series, go to the website of the International Institute for Strategic Studies. Particularly note the keynote address given by Prime Minister Abe of Japan and how it contrasts with the address of Secretary of Defense Hagel. Both take China to task, but Abe does so elliptically, while Hagel is blunt.

www.iiss.org/en/events/shangri-s-la-s-dialogue



ISSUE

Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*



Is Turkey Becoming Authoritarian?

YES: David L. Phillips, from "Testimony during Hearings on 'Turkey's Democracy under Challenge'," *U.S. House of Representatives Committee on Foreign Affairs* (2017)

NO: Ali Cinar, from "Testimony during Hearings on 'Turkey's Democracy under Challenge'," *U.S. House of Representatives Committee on Foreign Affairs* (2017)

Learning Outcomes

After reading this issue, you will be able to:

- Describe the evolution of the Turkish Republic.
- Explain the principal constitutional changes called for in the 2017 Turkish referendum and how they have changed the political system of the Republic.
- Explain the arguments for and against identifying Turkey as authoritarian.

ISSUE SUMMARY

YES: David L. Phillips is a director of the Program on Peace-building and Rights at Columbia University's Institute for the Study of Human Rights. He has also worked as a senior adviser to the United Nations Secretariat and as a foreign affairs expert and senior adviser to the U.S. Department of State. In his testimony, given just before the country's constitutional referendum in April 2017, Phillips argues that President Erdogan has been taking Turkey down an increasingly authoritarian path, one that has left it as an outlier in the liberal democratic NATO community.

NO: Ali Cinar is a president of the Turkish Heritage Organization, a U.S.-based nonprofit organization that promotes discussion and dialogue around Turkey's role in the international community and issues of importance in the U.S.–Turkish relationship. He believes that fears of a creeping authoritarianism are unwarranted and borne from the failure to appreciate the unprecedented domestic and transnational threats the country has faced over the past few years. In this context, the constitutional referendum did not represent the "death of Turkey's nascent democracy" as Phillips' characterizes it, but rather its consolidation.

Born from the ashes of the Ottoman Empire, the modern Republic of Turkey was founded on October 29, 1923, with Mustafa Kemal (known as Ataturk or "father of the Turks"), a former army officer, as its first president. At this point, the country was plunged into new era of socioeconomic, political, and cultural change. Ataturk wanted Turkey to become a modern state and believed this would only be possible if it developed along western lines. He then instigated a process of political and cultural secularization that included the formal ending of the Ottoman Caliphate and the replacement of Islamic law with a secular civil and criminal code. In 1928, the clause retaining Islam as the state religion was removed from the constitution. He even introduced a new Turkish alphabet based on the Latin alphabet.

Though officially a republic with a system of checks and balances, Ataturk effectively ruled a one-party state until his death in 1938. The first real democratic elections were not held until 1950, when the Democratic Party

(DP) defeated Ataturk's Republican People's Party. Over the next four decades, the Turkish state developed into a multiparty democratic system, although there were a number of military coups conducted (1960, 1971, 1980, and 1997) in which the military ostensibly sought to maintain the country's democratic and secular nature. The Turkish military has traditionally viewed itself as the guardian of the principles and objectives laid down by Ataturk and its direct (and indirect) interventions in politics has been an important part of the Republic's political development.

The current President of Turkey, Recep Tayyip Erdogan, has held the position for four years. His first experience in elected office was as Mayor of Istanbul between 1994 and 1998. Near the end of his term, he was sentenced to 10 months in jail (he served four) for "inciting hatred based on religious differences" for reading the poems of an Ottoman Islamist poet in public. In 2001, he formed the Justice and Democratic Party (AKP). This was an Islamist party and, as such, risked being found unconstitutional by the legal authorities, just as its Islamist predecessors, the Welfare Party (1983–1998) and Virtue Party (1998–2001) had been before it. However, the AKP escaped this fate in 2008, when the Constitutional Court in Ankara voted by the narrowest of margins not to ban it.

In 2003, Erdogan was elected Prime Minister and the Constitutional Court's decision came at the midpoint of his tenure, which ended in 2014. The case itself demonstrated just how nervous the Turkish political establishment had already become about the direction the AKP was taking the country. This concern was also growing amongst Turkey's NATO allies, which Turkey had joined in 1952. However, the first years of Erdogan's leadership had seen significant political reforms to strengthen political parties, ban the death penalty, and strengthen personal freedoms. His economic reforms also greatly improved the country's living standards and infrastructure. When President Obama addressed the Turkish Parliament in 2009, he did so still hopeful that Erdogan and the AKP would remain an exemplar for how Islam and democracy could coexist in a modern republic.

Erdogan is, without doubt, Turkey's most successful modern politician. He has won every election he has contested. His popularity has been maintained by his personal charisma and populism, which reflect his working class roots. He continues to garner support for his perceived struggle against the country's political, economic, and social elites. The AKP won a third consecutive parliamentary majority in the 2011 elections and thus secured him a third term. By this time Erdogan's detractors were becoming increasingly worried about his autocratic tendencies. This was to come to a head in May 2013, when protests against the commercial development of a city-park in Istanbul spontaneously ignited several rallies against the Erdogan administration in a number of major Turkish cities. These protests were brutally suppressed by the Turkish police and the local media paid very little attention to the events.

The following year, having exhausted the constitutional limit of three terms as prime minister, Erdogan became the AFK's candidate for the presidency, which he won with nearly 52 percent of the vote in August 2014. When in a shock result, the AFK lost its parliamentary majority in the national elections of June 2015, the country was left with a hung parliament. When negotiations failed to reach agreement on a coalition government, Erdogan disbanded the parliament and called for new elections. The AFK regained its parliamentary majority in the November 2015 elections.

On July 15, 2016, a faction of the Turkish military launched a coup to prevent the further deterioration of the secular Turkish republic. Questions remain over who was involved and why, but the attempt fizzled out over a few hours—but not before nearly 300 people had been killed. Erdogan has blamed the coup on members of the military and state bureaucracy still loyal to a former political ally of his, Fethullah Gulen, who has been resident in the United States since 1999. Gulen formed an effective political alliance with Erdogan and his AFK party during his stint as prime minister, but the two fell out and by December 2015 the Gulen Movement had been designated as a terrorist organization. Turkey continues to seek his extradition for instigating the coup and other crimes.

Regardless of who is actually to blame for the coup, Erdogan has responded with large-scale arrests, purges, and imprisonments. Since the coup, a "state of emergency" has been declared during which hundreds of thousands of public servants have been fired and tens of thousands of Turkish citizens have been jailed without due process. Those jailed include more than 150 journalists. Six thousand people have been fired from Turkish universities and the 350,000 strong Turkish Army has lost close to half its generals, along with 400 Turkish military envoys to NATO.

In this environment, the Turkish Government decided to put a number of constitutional amendments to a national referendum in April 2017. Though too numerous and complex to cover in their totality here, the general effect of these changes would be that Turkey would change from being a parliamentary democracy to a presidential system—which would pretty much ensure Erdogan continues to be Turkey's most powerful leader through two five-year election cycles (starting in 2019). The process for impeaching a president was also to be made much more cumbersome.

Additional changes were proposed for the judicial branch of government.

In the first selection, David L. Phillips, Director of the Program on Peace-building and Rights at Columbia University's Institute for the Study of Human Rights, provides testimony to the U.S. House of Representatives Committee on Foreign Affairs Subcommittee on Europe, Eurasia and Emerging Threats, in which he argues that the referendum is the final nail in the coffin for the secular democratic Turkish Republic. Testifying just 10 days before the referendum, Phillips suggests that Erdogan has never been a democrat at heart. Rather, he has used and abused the democratic process to achieve his own personal gains and Islamist ambitions. He thus believes it is time for the United States to recognize just how bad the situation has become and for NATO to create a mechanism to suspend undemocratic human rights abusers like Turkey.

In his testimony on the same day, Ali Cinar, President of the Turkish Heritage Organization calls on the Committee to appreciate the tremendous domestic, international and transnational threats Turkey is currently struggling with. For example, it is fighting three major transnational terrorist threats simultaneously, from the Kurdish PKK, the Gulenist FETO, and Daesh (ISIS). It has also become the world's largest refugee hosting country because it neighbors Syria. At the same time, it is dealing with the aftermath of a failed military coup that has proven the need to reform the 1982 Constitution in order to create a civilian government that is strong enough to prevent future military interference. The constitutional referendum does not therefore represent the "death of Turkey's nascent democracy" as Phillips' characterizes it, but rather its consolidation. Continued stable U.S. and NATO relations with Turkey are thus essential, as anything less will threaten the future security of Turkey and the region.



YES

David L. Phillips

Testimony during Hearings on "Turkey's Democracy under Challenge"

There were early warning signs. In 1998, Tayyip Erdogan made a public speech:

> The mosques are our barracks, the domes our helmets, the minarets our bayonets, and the faithful our soldiers.

A court sentenced Erdogan to a 10-month prison term for "inciting hatred based on religious differences." After the 2002 elections, Erdogan said: "Democracy is like a street car. You get off when you reach your destination." When this committee held similar hearings last May, it was apparent that democracy was backsliding in Turkey. As I will report today, this trend has intensified. My analysis will address:

- islamism;
- corruption;
- freedom of expression and assembly;
- freedom of the press;
- terror ties;
- relations with the EU and NATO; and
- minority rights (Kurds, Armenians, and Greeks).

Turkey is called as a secular democracy. Turkey is neither secular nor a democracy. If the referendum passes on April 16, formalizing antidemocratic governance, the date will mark the death of Turkey's nascent democracy.

Turkey is heralded for its NATO membership. But NATO is more than a security alliance. It is a coalition of countries with shared values. Turkey under Tayyip Erdogan is an uncertain ally. Turkey is Islamist, antidemocratic, and a serial abuser of human rights. Turkey would not qualify as a member if NATO was established today.

Islamism

Mustafa Kemal Ataturk established the Republic of Turkey in 1923. He redefined the role of religion, strictly separating religion and government. Ataturk defined Turkey's republican identity through cultural values shared with Europe. Secularism gave primacy to reason over faith. It placed individualism over the divine.

After Ataturk, pious politicians increasingly challenged the country's secular elite. In response, the Constitutional Court banned Islamist parties. The military intervened in 1960, 1971, 1980, and 1997 to restore Kemalist order against leftist, conservative, and Islamist parties. In 1994, Erdogan was elected mayor of Istanbul. The Refah Party, with Erdogan in its leadership, was banned in 1997. Erdogan became prime minister when the AKP won national elections in 2002.

For Erdogan, human rights are Islamic rights. After emerging from prison in 1998, Erdogan found it expedient to espouse human rights in Western terms. Not because he believed in them, but because it advanced his political agenda to subordinate the security establishment under the guide of advancing Turkey's EU candidacy. Erdogan disassociated himself from political Islam, while embracing Islamic identity politics. For Erdogan, democracy and human rights were vehicles to advance Islamic expression.

Tensions between the AKP and the military escalated when Erdogan nominated Abdullah Gul to become president in 2007. Security officials were appalled that Gul, a devout Muslim, would occupy the office once held by Ataturk. To counter threats of a coup, Erdogan called early elections. On July 22, 2007, the AKP won 46.6 percent of the vote, which equated to 341 of the 550 seats in parliament. Erdogan used his political capital to push legislation allowing women to wear the hijab at universities and public institutions.

When the Turkish Supreme Court deemed the law unconstitutional, Erdogan threatened: "We are going to shut down the Constitutional Court." In 2008, the AKP sponsored a referendum on constitutional reform, giving the AKP-controlled parliament greater influence over the appointment of senior judges and prosecutors. Erdogan also intensified pressure on the military. Hundreds of

Phillips, David L. "Testimony during Hearings on Turkey's Democracy Under Challenge," *U.S. House of Representatives Committee on Foreign Affairs*, April 2017.

retired military officers were arrested. Arrests were justified, citing a fantastic plot that included bombing mosques in Istanbul, staging the assault of a military museum by people disguised as religious extremists, and raising tensions with Greece by downing a Turkish plane over Greek air space. Turkey's army, navy, and air force heads resigned to protest the arrests. Last month, a measure was adopted allowing females in the armed forces to wear the hijab while on duty.

Corruption

Single-party rule fostered a culture of corruption that touched the highest levels of government, as well as the Erdogan family. On December 17, 2013, police officers raided several homes, seized $17.5 million in cash, and detained 52 people with ties to the AKP. Prosecutors charged 14 people with bribery, corruption, fraud, and money laundering. Four ministers resigned.

As the crackdown unfolded, Erdogan called Bilal, his son, instructing him to dispose of cash at several family homes. Wiretaps recorded the calls. At eight in the morning on December 17, 2013, Erdogan called Bilal: "Now I'm telling you, whatever you have in the house, get rid of it, OK?" Father and son spoke four times during the day. In their last conversation, Bilal indicated: [I still have] "30 million euros ($39 million) that we could not yet get rid of." Erdogan assured Bilal, "Whatever, we will deal with it." Bilal indicated "Berat Albayrak, (Erdogan's son-in-law and current minister of energy), has an idea to buy villas from Sehrizar Apartments. What did you think?" The case was white washed. Prosecutors and police were fired and incriminating tapes destroyed to get rid of the evidence.

The case of Reza Zarrab warrants special mention. Zarrab, a dual Iranian-Turkish national, was arrested by Turkish police in December 2013. Zarrab was charged with gold smuggling and bribing cabinet ministers. Erdogan made special efforts to shield Zarrab. He vouched for Zarrab's character, calling him a "philanthropist" whose work had "contributed to the country." Charges against Zarrab were dismissed, as a result of Erdogan's intervention.

When Iran was denied access to the SWIFT international money transfer system as a result of US sanctions, the Iranian government developed a strategy for by-passing SWIFT using Turkey's Halkbank. Zarrab sent money to front companies in China, identifying the transfers as export reimbursements. Funds were moved from the Chinese companies to companies in Turkey. The money was used to buy gold, which was transported to Iran via middlemen in Dubai. Selling Iranian gold and laundering the proceeds through Turkish banks violated US sanctions. On March 19, 2016, Zarrab was arrested at Miami International Airport.

Zarrab's indictment was unsealed in the Southern District of New York. Charges included defrauding the United States, money laundering, and violating the International Emergency Economic Powers Act, which regulates Iran sanctions. Kemal Kilicdaroglu, head of the People's Republican Party (CHP), predicted: "All the dirty laundry will come out. Many people won't sleep a wink tonight."

The probe is ongoing. Mehmet Hakan Atilla, Halkbank's vice president for international banking, was arrested in New York on March 27, accused of "a years-long scheme to violate American sanctions laws by helping Zarrab to use U.S. financial institutions to engage in prohibited financial transactions that illegally funneled millions of dollars to Iran."

The 2013 EU progress report highlighted corruption, expressing "concern" 39 times. According to the report, "The government's response to allegations of corruption targeting high-level personalities, including members of the government and their families, raised serious concerns over the independence of judiciary and the rule of law."

Freedom of Expression and Assembly

Turkey systematically denies freedom of expression and freedom of assembly. It uses the 1991 Law on the Fight against Terrorism to silence critics, alleging breaches of national security. Article 8 of the Anti-Terror Act is applied selectively to restrict freedom of expression. Article 301 of the Penal Code makes it a crime to denigrate "the Turkish Nation, the State of the Turkish Republic or the organs and institutions of the State." Article 216 of the Penal Code, which carries a mandatory prison term of up to three years, bans "incitement of hatred or violence based on ethnicity, class, or religion," targeting Kurds.

Turks resent Erdogan's authoritarianism and intrusion into their private lives. For example, Erdogan publicly called on women to bear at least three children. He made comments about their makeup, lipstick color, and what clothes women should wear. He recently called on Turks living in Europe to have five children in order to affect Europe's demography.

In May 2013, Turks protested plans for a shopping center in Gezi Park, camping in Gezi for 17 days. Though Article 34 of the constitution permits freedom of assembly, riot police attacked with tear gas and water cannons on May 30, 2013. While Gezi was the epicenter of protests,

antigovernment demonstrations occurred in 60 cities across Turkey. Police brutality fueled civic unrest. There was scant media coverage of the Gezi protests. As the crackdown was unfolding, state media aired a documentary about penguins.

Gezi initiated a new phase in Turkey's crackdown on social media. Though Article 26 of Turkey's constitution guarantees freedom of expression and dissemination of thought, the government launched an investigation to track down tweets during the protest and expose "provocateurs." After Gezi, the government exercised increased powers to shut down websites. The Internet Law No. 5651 of February 2015 empowered Turkey's Telecommunication Directorate to block websites without court approval.

Adopted in April 2015, the Law Amending the Law on State Intelligence Services and the National Intelligence Organization allowed the National Intelligence Agency (MIT) to access personal data without a court order. It provided immunity to MIT personnel from legal violations committed in the course of their work. It also criminalized reporting on MIT's activities. A new law allowed sentences of up to nine years for publishing information from leaked intelligence material. Article 299 of the Penal Code established criminal liability for insulting the President. Between August 2014 and March 2016, the prosecutor opened 1,845 cases based on Article 299.

Press Freedom

By November 2016, Turkey had more journalists in jail than any country in the world. As many as 150 journalists, ⅓ of the total jailed worldwide, were imprisoned. More than 160 media outlets were closed by the end of 2016. The European Parliament (EP) issued its biyearly progress report on April 14, 2016. "Turkey still has one of the highest number of imprisoned journalists in the world." According to Freedom House, "Turkey does not have a free press." "Turkey remains top of Twitter's global censorship list," according to the latest Twitter Transparency report published on March 21. Erdogan called imprisoned journalists "terrorists, child molesters, and murderers (Cumhurriyet, March 22, 2017)."

Turkey uses a variety of techniques to suppress criticism. Journalists are prosecuted for terrorism, insulting public officials, or crimes against the state. Threats and physical attacks occur. Officials interfere with editorial independence and pressure media organizations to fire critical journalists. The government also exerts financial pressure. For example, the Dogan Group, which owns Hurriyet and CNN Turk, was penalized $3.2 billion in tax arrears.

Turkish courts and regulators issue gag orders on specific topics. A ban on allegations of MIT involvement in weapons shipments to Syria was imposed in February 2014. Another was issued in March 2014, restricting dissemination of leaked audio recordings of national security meetings. Can Dundar, editor in chief of Cumhurriyet, was sentenced to five years for reporting on MIT's weapons transfers to ISIS in Syria.

Terror Ties

Turkey stepped up its supply of weapons to Islamist insurgents in Syria when the United States failed to intervene after Syria used chemical weapons in August 2013. MIT established an infrastructure for supporting jihadists, ranging from weapons transfers to logistical support, financial assistance, and medical services. Vice President Joe Biden confirmed Turkey's involvement (Harvard University, October 2, 2014). "Our allies in the region were our largest problem in Syria. The Turks . . . poured hundreds of millions of dollars and ten thousand tons of weapons into anyone who would fight against Assad." Biden continued, "President Erdogan told me, he's an old friend, 'You were right. We let too many people through.'"

Erdogan refuted Biden's claim. "My request from our friends in the United States is to make your assessment about Turkey by basing your information on objective sources." In response, Columbia University created an international research team based on the United States, Europe, and Turkey. Columbia documented scores of credible reports on Turkey's cooperation with jihadi groups, including ISIS.

Fethullah Gulen

Gulen and Erdogan were friends and partners. Hizmet ("Service"), a moderate Muslim network founded by Gulen, propelled the AKP's rise. Gulen provided resources and infrastructure to support the AKP and erode the secular bureaucracy. Gulen instructed his followers to infiltrate mainstream structures: "You must move within the arteries of the system, without noticing your existence, until you reach all the power centers." In 1999, Gulen was charged with undermining secularism and fled to Pennsylvania.

Erdogan blamed Gulen of running a "parallel state," with Gulenists permeating the judiciary, police, and the media. Erdogan accused Gulen of orchestrating the corruption crackdown in December 2013. Turkey is seeking his extradition for allegedly masterminding the failed coup of July 15, 2016.

Postcoup Conditions

Erdogan warned his opponents, "They will pay a heavy price for this." He launched purges against oppositionists. The New York Times described the purges as a "counter-coup." Erdogan would "become more vengeful and obsessed with control than ever, exploiting the crisis not just to punish mutinous soldiers but to further quash whatever dissent is left in Turkey." A three-month state of emergency was declared, giving the government extraordinary powers, bypassing parliament, and ruling by decree. The state of emergency was extended for a second three-month period, as the crackdown intensified. As of November 2016, more than 40,000 people had been arrested since the coup. More than 100,000 people were dismissed from state institutions including the judiciary, military, and security forces.

Roughly 1/3 of the 220 brigadier generals and 10 major generals were detained. One-third of all admirals were arrested. Many majors and lieutenant colonels were taken into custody. About 6,000 soldiers of various ranks, mostly conscript privates, were imprisoned and about 9,000 police officers dismissed. Two hundred sixty-two Turkish diplomatic, military personnel have requested asylum in Germany. The education sector was decimated. About 21,000 teachers were suspended or fired. An additional 11,000 Kurdish educators were suspended for suspected links to the PKK. Every university dean in the country was forced to resign. Erdogan was given authority to appoint university heads.

The rule of law was undermined. Two thousand seven hundred fifty-four judges were dismissed, including members of the High Council of Judges and Prosecutors. A member of the Constitutional Court was arrested and charged with collusion. Ten members of Turkey's highest administrative court were detained. Under new state of emergency provisions, prosecutors were given permission to record lawyer–client conversations, and judges were empowered to deny the accused access to a lawyer for up to three months. At least 30 governors were fired. The Ministry of Interior revoked the passports of 49,211 Turkish citizens. Private property was confiscated and retirement benefits canceled. The World Justice Index placed Turkey 99th of 113 countries in its rule of law ranking, behind Iran and Myanmar.

Outlier in Europe

Turkey became a European Union (EU) candidate country at the EU Helsinki Summit in December 1999. EU candidate countries must meet economic and institutional requirements. They must also have "stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities." Actual negotiations would start when Turkey met the "Copenhagen criteria," which enshrine human rights.

The EP voted to suspend talks with Turkey on EU membership (November 24, 2016), citing Erdogan's crackdown on political opponents after the failed coup. The resolution warned, "The government's actions are further diverting Turkey from its European path." The resolution passed overwhelmingly with 479 votes in favor, 37 against, and 107 abstentions.

Erdogan doubled down by threatening to cancel the EU–Turkey deal on migrants. Tensions between Ankara and the EU worsened. When Germany refused to allow a campaign rally with Turkish ministers, citing security concerns, Erdogan accused the German government of "Nazi measures." When the Dutch government refused landing rights to Turkey's foreign minister for similar reasons, Erdogan described it as "Nazi remnants and fascists." On March 15, Turkey's Foreign Minister Mevlut Cavusoglu warned: "Holy wars will soon begin in Europe." That same day the interior minister threatened: "We could open the way for 15,000 refugees that we don't send each month."

Efforts to undermine democracy extend to countries in Europe as well as the United States. Revelations in Wikilinks document a systematic effort to camouflage Turkey's illicit lobbying efforts in the United States. Payments to General William T. Flynn also represent influence peddling, including representation that violated the Foreign Agents Registration Act.

Minority Rights

EU Membership requires the protection and promotion of minority rights in accordance with international standards. Turkey is not in compliance when it comes to Kurdish, Armenian, and Greek issues.

Kurdish Issues

The AKP's sweeping victory in 2007 resulted from inroads with Kurdish voters. The AKP appealed to Kurds through its conservatism and by expanding social services, building roads, schools, and hospitals in predominantly Kurdish areas of the Southeast. Erdogan publicly acknowledged the Kurdish issue, promising an end to civil war. Kurds were tired of conflict. They hoped that the AKP would pursue a peace process with the PKK, resulting in disarmament and demobilization. Kurds also hoped that the AKP

would amend the constitution, recognizing Kurdish identity. These hopes were misplaced.

In January 2016, more than 1,400 Turkish academics signed a "peace petition" calling for an end to Turkey's "deliberate massacre and deportation of Kurdish people." The petition, entitled "We will not be party to this crime," also called for peace talks with the PKK. The government responded with a broadside on academic freedom and freedom of expression. Erdogan said, "We are not in the position to seek permission from the so-called academics. These [people] should know their place." Erdogan referred to the peace petition as a "betrayal." He called its signatories "darkest of the dark" and "a fifth column" for terrorists. According to Erdogan. "They commit the same crime as those who carry out massacres."

The 2016 EP report deplored "the increasingly authoritarian tendencies of the Turkish leadership." It expressed concern about "rapidly deteriorating" security situation in the country, especially in the Southeast. The report insisted that, "All operations by security forces must be proportional and not take the form of collective punishment." According to the EP, "The Turkish government has a responsibility to protect all people living on its territory, irrespective of their cultural or religious origins."

The AKP received 40.9 percent of the vote on June 7, 2016. The tally was less than Erdogan expected. The vote was the first time in four general elections that support for Erdogan decreased. The progressive and pro-Kurdish Democratic People's Party (HDP) crossed the 10 percent barrier with 13.1 percent, which equated to 80 seats in the parliament. Erdogan blocked the formation of a coalition government, resulting in early elections. In July, Erdogan cynically restarted Turkey's civil war with the PKK in a play for nationalist voters. He promised stability and the return of economic growth. Fear mongering worked. On November 1, Erdogan tightened his grip on power, establishing single-party government with nearly 50 percent of the vote. The tally was a big step toward realizing Erdogan's goal of constitutional reform and an executive presidency, pending parliamentary approval, and a popular referendum, which is scheduled for April 16, 2017.

Eliminating the HDP as an effective opposition, the Turkish government jailed 13 HDP members of parliament on terrorism charges and took direct control of 82 municipalities in the Southeast, incarcerating elected mayors. Thousands of other members of the Kurdistan Communities Union were arrested. According to the HDP, 5,471 HDP party officials, including heads of provincial and district branches, were detained since the coup. The arrests undermined the HDP's ability to conduct a campaign over the upcoming referendum.

A report of the Office of the United Nations High Commissioner for Human Rights (March 2017) documented security operations in a number of Southeast provinces affecting civilians. Between July 2015 and December 2016, about 2,000 people were killed. The report documented numerous cases of excessive use of force; killings; enforced disappearances; torture; destruction of housing and cultural heritage; incitement to hatred; prevention of access to emergency medical care, food, water, and livelihoods; violence against women; and severe curtailment of the right to freedom of opinion and expression as well as political participation. The most serious human rights violations reportedly occurred during periods of curfew, when entire residential areas were cut off. Movement was restricted around-the-clock for several days at a time. Half a dozen cities were attacked. Cizre's destruction rivals the destruction of Aleppo in Syria.

Armenian Issues

From 2001 to 2004, I chaired the Turkish Armenian Reconciliation Commission (TARC), whose work represented enormous progress addressing the Armenian Genocide. TARC facilitated participation of both sides in a legal opinion recognizing that the UN definition of genocide fit the Armenian experience. TARC also facilitated the agreement of joint recommendations to concerned governments on how to establish and improve relations. Contact between Turkish and Armenian civil society developed rapidly and continues to show progress. As President Reagan recognized in 1981, Armenians suffered the first genocide of the 20th century with over 1.5 million victims; Armenian Genocide Remembrance Day is April 24.

In 2009, the Armenian and Turkish governments signed protocols on how to advance their relationship by establishing diplomatic relations, lifting the Turkish blockade of Armenia, and dealing openly with unresolved problems. Armenian President Serge Sarkisian stood by those agreements. However, Erdogan reneged refusing to submit the protocols to parliament for ratification. His anti-Christian and anti-Armenian rhetoric appeals to the Turkish nationalist base and exacerbates racism.

The Erdogan government is currently seeking to control the election of a new Armenian Church Patriarch in Istanbul. It has reversed prior trends toward objective education on the millennia old Armenian history in Turkey. Where the Armenian Church used to own over 5,000 churches and religious institutions, today it is allowed less than 50. During more positive times and with assistance from the courageous mayor of Diyarbakir, Armenians were allowed to renovate and reopen the historic Saint Giragos

Church. Under the pretext of the war on terror, however, the Turkish government expropriated the Church falsely claiming it wanted to repair damage. Local residents believe the government plans to replace destroyed minority neighborhoods with high-end condominiums. Better-off Syrian refugees could be resettled there. Turkey has also played an unhelpful role in United States and international efforts to resolve peacefully the Nagorno-Karabakh conflict.

Greek Issues

Ecumenical Patriarch Bartholomew, the spiritual leader of the second largest Christian Church in the world with 300 million followers, resides in Istanbul. The Ecumenical Patriarch's religious freedom is severely curtailed in Turkey. By refusing to recognize his "legal identity" as the Ecumenical Patriarch, the government of Turkey justifies the confiscation of thousands of Ecumenical Patriarchal properties including monasteries, church buildings, an orphanage, private homes, apartment buildings, schools, and land. Turkey began returning some of those properties a few years ago, but then stopped.

The Ecumenical Patriarch's seminary at Halki, which had operated since 1844, was forced to close in 1971. The Government of Turkey has inserted itself into the Church's selection of future Ecumenical Patriarchs, suggesting it may again insist on the right to veto Ecumenical Patriarchs elected by the Church's Holy Synod.

Turkey's recent treatment of Hagia Sophia in Istanbul is cause for concern. Hagia Sophia is a UNESCO World Heritage Site, built in 537 and maintained as the world's largest Christian cathedral for nearly 1,000 years. Muslims then utilized the structure as a mosque for almost 500 years. In 1935, it was opened as a museum for all faiths. Just last year, for the first time in 85 years the Qur'an was recited at Hagia Sophia. Other steps are anticipated, converting Hagia Sophia into a mosque.

The Constitutional Referendum

Parliament authorized constitutional amendments on January 20, 2017. A referendum to approve 18 amendments to the constitution will be held on April 16, 2017. If approved, the referendum will establish an executive presidency. It will eliminate checks and balances. The current parliamentary system will be canceled, and the Office of the Prime Minister abolished. The president would appoint and dismiss ministers. The number of seats in parliament will be increased to 600 from 550. Changes brought about by adoption of the referendum will limit the power of parliament to impeach the president. Changes will also be made to the Supreme Board of Judges and Prosecutors, undermining judicial independence. The referendum will destroy Turkey's prospect of gaining membership in the EU. By abandoning its Western orientation, the referendum will change the way Turkey is governed, establishing one-man rule and transforming Turkey into a dictatorship.

Free and Fair?

Erdogan has tried for years to consolidate his power by establishing an executive presidency. He has used his current executive powers to enhance the "yes" vote. The AKP's control of media has hampered the "no" campaign. The state of emergency declared after the coup created an environment hindering efforts of the "no" campaign. Erdogan intimidated opponents by accusing them of supporting the coup plotters. Opponents of the referendum have suffered coercion, harassment, and arrest. The American pastor Andrew Brunson was jailed. Incarcerating HDP deputies and lifting their parliamentary immunity undermined the coalition of opponents. The HDP has filed an application at the European Court of Human Rights regarding continued arrest of its co-leaders, Selahattin Demirtas and Figen Yuksekdag. The police limited the activities of "no" campaigners. Local government officials denied "no" campaigners permission to hold rallies and limited their access to public facilities. The CHP released a report identifying 78 measures Erdogan used to suppress support for the "no" campaign (March 1, 2017). The CHP intends to challenge the parliamentary vote at the Constitutional Court, citing irregularities and intimidation of deputies. For example, a CHP member with an artificial arm and leg was attacked on the floor of the parliament and her prosthetics ripped from her body. Turkey's descent to dictatorship is occurring in plain sight. US officials must not turn a blind eye. They should see Turkey as it is, not how it used to be, or how they wish it were.

Recommendations

- Review Turkey's NATO membership. There are extensive political criteria for joining NATO. But no one ever thought a NATO member would go rogue, requiring expulsion. The North Atlantic Council could establish a "Compliance Review Committee," using a scorecard to grade the democracy and human rights performance of Member States. If a country, such as Turkey or Hungary, receives a failing score for consecutive years, its NATO membership would be temporarily suspended.

- Diversify air combat operations, mitigating threats by Turkey to block US access to Incirlik Air Force. Alternatives include British bases in Cyprus—Akrotiri and Dhekelia, as well as bases in Jordan, Kuwait, and Iraqi Kurdistan.
- Develop a dossier of war crimes committed by Turkish security against the Kurds, and support a commission of inquiry. The risk of Interpol red bulletins freezing the assets and restricting travel of Erdogan, members of his inner circle, and family members could have a positive influence on Turkey's behavior.
- Have additional hearings of the House Committee on Foreign Affairs. Consider the referendum, including whether votes were accurately counted, as well as the conditions in which the referendum was conducted. Members of Congress should support initiatives to directly assist democratic forces and civil society in Turkey.
- Continue to prosecute with appropriate zeal the case of Reza Zarrab. In 2016, federal prosecutors successfully defeated Zarrab motions for bail and dismissal. Trial is now set for August. It should proceed apace.
- Resist politicization of Gulen's extradition review. The US Justice Department must decide if Turkish evidence is strong enough to merit extradition, and if Gulen could receive a fair trial in Turkey in the context of postcoup conditions. The State Department has an important role to play in extraditions. But extradition is fundamentally a legal, rather than a political, determination, as established in the US-Turkey Extradition Treaty.

David L. Phillips is a director of the Program on Peacebuilding and Rights at Columbia University's Institute for the Study of Human Rights. He has also worked as a senior adviser to the United Nations Secretariat and as a foreign affairs expert and senior adviser to the U.S. Department of State.



Ali Cinar

NO

Testimony during Hearings on "Turkey's Democracy under Challenge"

I think "Turkey's Democracy under Challenge" is a suitable title for this hearing. Regardless of where one stands on his/her views on Turkey, I am sure everyone would agree that 2016 was a particularly challenging year for Turkey and U.S.–Turkey relations. Exceptional security challenges, including an attempted coup on July 15 and an increase in deadly terror attacks carried out by groups like Daesh, the Kurdistan Workers Party (PKK), and Kurdistan Freedom Hawks (TAK), have compounded U.S.–Turkey relations, which have suffered a series of setbacks regarding disagreements and tensions over two major security issues: U.S. support of the People's Protection Units (YPG) in Syria and Turkey's request for the extradition of Fethullah Gulen.

Understanding Turkey's democracy that is under challenge requires a thorough review of its domestic and regional risks. Terrorism continues to be Turkey's number one security concern. Escalation of the conflict between the PKK and the Turkish state in 2016, ignited a wave of deadly terror attacks carried out by the TAK in cities like Istanbul, Ankara, and Kayseri. The renewal of this conflict is compounded by the increasing threat posed by Daesh, which successfully carried out a series of large-scale attacks in Turkey. These attacks made it clear that Turkey was facing an unprecedented security threat emanating from Syria that needed to be addressed. Overall, more than 270 people lost their lives in at least 12 major terror attacks in Turkey, making 2016 a year of terror.

The July 15 Coup Attempt, which was carried out by a faction within the Turkish Armed Forces (TSK), took a considerable toll on the Turkish nation. According to the Turkish government, the coup attempt was organized by U.S.-based Turkish exile Fethullah Gulen and a group of his followers that the Turkish government has labeled the Fethullah Gulen Terror Organization (FETO). Turkey's 26th Chief of the General Staff, Gen. (Ret.) M Ilker Basbug, who was jailed following the Ergenekon Trials, delivered a special address in Washington, DC, as Turkish Heritage Organization's guest. Gen. Basbug told the audience he had no doubt that the coup attempt was organized by followers of Fethullah Gulen.

Similarly, Lt. Gen. Ismail Hakki Pekin, the former head of Turkey's military intelligence; Colonel Judge Ahmet Zeki Ucok, former military judge who has conducted investigations into the infiltration into the TSK of followers of Pennsylvania-based Turkish cleric Fethullah Gulen; and Nedim Sener, who has investigated the role of Gulen-affiliated security forces in the assassination of Turkish-Armenian journalist Hrant Dink, spoke about the dangerous nature of the Gulen network when they visited Washington, DC, as Turkish Heritage Organization's guests.

Following the coup attempt, the Turkish government formally requested Gulen's extradition to Turkey and presented the U.S. government with evidence showing Gulen's involvement in multiple crimes in Turkey. The extradition is one of the major areas of concern for Turkey with regard to its relations with the United States. It may be difficult to grasp the dangerous nature and capabilities of the Gulen movement for those who are not familiar with it, but Turks and Americans from Turkish heritage are well aware of this organization's history and extensive worldwide network. Gulen network's infiltration of state institutions in Turkey was a well-known fact. However, at the time both the Turkish and U.S. governments turned a blind eye to the organization "when it suited them."

Colonel Judge Ucok, who helped conduct military investigations into the Gulen network's infiltration during his tenure at the Air Force Attorney General's office, claimed that investigations had shown evidence that during the period between 1986 and 2006, 30,000 officers could have been connected to the Gulen movement. He estimated that during the following decade, an additional 40,000 could have entered into the armed services, thus making the number of affiliated officers approximately 100,000 by the present day. He said that of the 358 generals in the TSK, 160 had been connected to this organization.

Cinar, Ali. "Testimony During Hearings on Turkey's Democracy Under Challenge," *U.S. House of Representatives Committee on Foreign Affairs*, April 2017.

For the first time in its history, the Republic of Turkey, a country that is all too familiar with periodic military interferences, was able to stop a military coup but it claimed 248 lives and injured over 2,000 people. Regardless of what we think about Turkey's democracy, the truth is that this coup attempt was going to undermine Turkey's democratic institutions, political parties and many other rights and liberties—exacerbating the existing domestic and regional risks and possibility initiating a civil war.

Republic of Turkey had survived an enormous threat and had to make difficult choices in the aftermath of the coup attempt. The emergency rule, which is still in effect, was aimed at taking the necessary precautions and eliminating the complex national security risks that it posed. According to Turkish newspapers, more than 113,000 people were arrested for charges related to FETO. Close to 42,000 people were released following the appropriate investigations.

As it entered its sixth year, the civil war in Syria became Turkey's biggest regional security risk in 2016. Turkey has continued to be a reliable and effective partner in the fight against Daesh. After opening up Incirlik Air Base in July 2015 for use by the Global Coalition to Counter ISIL as part of Operation Inherent Resolve, Turkey launched its own operation in August 2016 in northern Syria to counter Daesh as well as the YPG, which Ankara views as a terrorist organization due to its links to the PKK.

With Operation Euphrates Shield in northern Syria, Turkey declared that it was exercising its right to self-defense (codified under Article 51 of the UN Charter) and officially became the first anti-Daesh coalition country to use ground forces in Syria. However, continued U.S. support of the YPG—which Washington considers an effective partner in the fight against Daesh—has aggravated and severely antagonized Turkey's threat perceptions during a period in which Turkey is suffering from attacks by both Daesh and Kurdish nationalist terror groups.

Operation Euphrates Shield holds considerable significance for Turkey. Following the coup attempt in July, there were both domestic and international concerns about the state of the TSK and about Turkey's institutional strength as a critical NATO member. In addition to addressing border security concerns and confronting terror groups, Operation Euphrates Shield provided Turkey the opportunity to re-affirm its military strength and capability not only to its allies but also to its adversaries.

The ongoing civil war in Syria and the fight against Daesh continue to pose significant risks not only for Turkey but also for its allies. The Syrian conflict has exposed Turkey's domestic and regional vulnerabilities and undermined its security. It has strained U.S.–Turkey relations, which worsened even further after the coup attempt. Various disagreements between Turkey and the United States—especially over Syria drove Turkey closer to Russia. As a result, near the end of 2016, Moscow and Ankara worked closely together to negotiate a humanitarian ceasefire in Aleppo that would pave the way to a 2017 international meeting on a Syrian settlement in Astana, Kazakhstan. Although the rapprochement between Russia and Turkey has distanced the United States from this process, Ankara has expressed its willingness to improve its relations with Washington under the new presidential administration in the United States.

In addition to significant security risks, the ongoing civil war in Syria also poses a significant humanitarian aid concerns for Turkey. While EU was seeking ways to stem the flow of refugees, both the Turkish government and NGOs have expended ample time and resources to support the 3 million refugees in Turkey with little assistance from the international community. Turkey remains at the forefront of global humanitarian aid efforts, ranking second on the 2016 Global Humanitarian Assistance report's list of top global donors. Even though Turkey is the largest refugee hosting country in the world, it is only the 10th highest recipient of aid. There is a major need for more aid to support large refugee populations in host countries such as Turkey.

The observations that I make in Turkey as well as in Washington clearly indicate that continuation of complications between Washington and Ankara will not only severely damage bilateral defense cooperation between the two largest militaries in NATO but will also contribute to the destabilization of both Turkey and its region. All of these challenges and enormous risks should be taken into consideration when evaluating Turkey's domestic and foreign policy motives. Turkey's domestic security will continue to be vulnerable to the conflict in Syria, and for that reason, Ankara cannot adequately address the threats it faces from myriad terror groups without strong cooperation with the United States on Syria.

Turkey is gearing up for a historical referendum on April 16, when voters will decide whether or not to approve constitutional amendments that will shift Turkey's current parliamentary system to an executive presidency. The idea of executive presidency is not new in Turkey. Former Presidents Turgut Ozal and Suleyman Demirel have introduced it but they were unable to pursue it due to the political conditions at the time. As someone who lived through the 1980s military *coup d'etat* and the constitution that was established afterward in 1982, it is important to emphasize

that Turkey is not a "classical" parliamentary system. In fact the existing constitution was set up to address the expectations of military for a president that would come from a military background. In other words, the existing constitution is geared more toward protecting the Turkish state from the people than guaranteeing political and civil rights. From this perspective, the proposed changes to Turkey's constitution should be seen as a natural urge.

Turkey may not be a perfect democracy but one has to recognize that despite numerous challenges and setbacks, political and civil rights have significantly improved since the 1980s. The upcoming referendum is an attempt by the Turks to start a new chapter—a chapter that does not involve any military imposed constitution. Political stability, something that is difficult to grasp for under the military imposed constitution will be the ultimate goal of this referendum. I am not an expert on constitutional law and government. However, it is important to analyze the root causes and needs behind the proposed changes. Turkey traditionally had been governed by a bureaucratic-military secular elite. Up until recently, Turkish military remained as the invisible hand that monitored and threatened the political establishment. In 2007, military blocked then AK Party Foreign Minister Abdullah Gul's run for the presidency—a complete disregard to political process. This is just one example at the highest level. Turkey and Turks have been living under this invisible hand for over 35 years now!

Turkey and Turks hope that the proposed changes will finally change this three decades-long influence and interference that has negatively impacted the natural course of democratic progress. Under the proposed changes to the constitution, the President will be elected directly by the people with more than 50 percent of the votes, which means that there will be a better representation of the national will. Additionally, current issues with jurisdiction of the President is extraordinarily large. The new system proposes greater responsibility and accountability as well as faster and more efficient decision making process. Administrative obstacles and red tape, which have severe consequences on Turkey's overall governance, will be eliminated. Not to mention that the proposed system will create a strong barrier against coups.

The Current Version: Judicial power shall be exercised by *independent courts* on behalf of the Turkish Nation. **The Proposed Version:** Judicial power shall be *exercised by independent* and impartial courts on behalf of the Turkish Nation. **Why:** This would increase confidence in the Judiciary. FETO-like illegal structures will not be able to infiltrate the Judiciary. **Who has the Power?** The Grand National Assembly can take the decision to send the president to the Supreme Court with ⅗ of its members secret votes.

Judiciary in the new Proposed Presidential System: The Council of Judges and Prosecutors shall be composed of 13 regular members and shall comprise two chambers. The Council's four members are appointed from among judges and prosecutors by the president. Seven members are appointed by the Grand National Assembly. The minister of justice is the head of the council and the undersecretary is its natural member. Democratic legitimacy would be consolidated. Factionalism would come to an end. Example: The Netherlands: All members appointed by the King upon the proposal of the Justice Minister. Spain: All members appointed by the King upon the proposal of the Parliament. Norway: Nine members. Two appointed by the Parliament. The King appoints seven upon the proposal of the Government.

I wanted to give some examples of the proposed Presidential system. The Turkish Parliament will remain active and involved with the execution and able to investigate the President if needed. The most important part is to have a stronger system will increase the country's influence in the region and across the world. Don't we—United States—need a much stronger NATO ally in the region?

I would like to make some highlights on Turkey's Current Issues and Future of Partnership with the United States, especially after April 16: We will learn the results on April 16 but no matter what happens US–Turkey partnership will remain stronger despite some disagreements.

Security

Especially PYD & PKK and FETO are the two top major issues for the relationship. Many members of congress don't believe that FETO was behind the coup attempt but many evidences show that FETO was behind the coup. PYD and FETO are the big terror threats for Turkey along with ISIS.

While Turkey considers the PKK/PYD to be a terrorist group affiliated to the PKK, which has waged war against Turkey since 1984, the United States sees the PKK/PYD as its ground ally against Daesh in Syria. Turkey launched Operation Euphrates Shield on August 24 and completed mission last week. As a result: the operation was to ensure the security of Turkey, to purge ISIS territories from Turkish borders, to eliminate operational force of the terror

PKK-PYD and ISIS, and to ensure stability security in the region. More than 2,500 ISIS terrorists were neutralized and more than 600 terrorist captured—more than 71 Turkish Military staff martyred. Life in the purges areas went back to normal and thousands of Syrians went back their homelands.

Turkey is ready to support for fighting against ISIS in the region but concern remains on the US support to PYD. Several NGPs including Amnesty Int Human Rights Watch and Syrian Network for Human Rights report continuous human right violations and ethnic leasing campaign conducted by PYD-YPG.

Turkey has all the capabilities and ready to cooperate with United States on ground fight against DAESH

FETO: Turkey would like Fethullah Gulen to be extradited ASAP. If United States believes Turkey as a strong ally on this case, United States should take a look evidences more seriously and Turkey needs to be more patient on the U.S. justice system. Since we talk about the respect of the countries justice system.

The extradition treaty signed by U.S.–Turkey in 1979—treaty's 10th article says that in cases of urgency, if Turkey or the United States suspects anyone, the host country needs to arrest the suspect for 60 days until documents for extradition are submitted to the executive authority of the requested party.

The "Kurdish Issue"

The "Kurdish issue" in Turkey is so-named because previous governments in Turkey restricted the rights and representation of ethnic Kurds, and this situation was exacerbated by violence against citizens of Turkey in the name of Kurdish separatism.

Since 1980, Turkey has been experiencing a violent conflict with the Kurdistan Workers' Party (PKK). The PKK is classified as a terrorist organization by Turkey, the United States, and the EU. The fight between the PKK and the Turkish state has cost more than 40,000 lives.

In the 2000s, the AKP-led Turkish government initiated a "Kurdish opening" in an effort to find a political solution to this decades-long conflict. This opening included pursuing reforms that would allow for greater cultural rights. As one example of progress, in recent years, several Kurdish-language television and radio stations have been established in Turkey and courses teaching the Kurdish language and dialects have been created. This is a far cry from the days when Kurdish was banned in various forms under previous governments. As part of this "Kurdish opening," the Turkish government pursued a peace process with the PKK aimed at ending the violence of the previous decades. This process collapsed in 2015.

When looking at the "Kurdish issue" in Turkey today, it is important to disassociate Turkey's Kurdish population from the PKK terrorist group. The only "issue" the government of Turkey has is with PKK terrorists and their affiliates, who attack and kill citizens of Turkey of all backgrounds. It is important to note that the resurgence of the PKK conflict in Turkey is directly tied to the ongoing conflicts in Syria and Iraq. The chaos on Turkey's borders has strengthened the PKK by allowing it to continue operating from northern Iraq while strengthening its affiliates in Syria. There are significant links between the PKK and the Democratic Union Party (PYD) and its armed wing, the People's Protection Units (YPG), in northern Syria. In addition to sharing an ideology and a devotion to Abdullah Ocalan, both the PKK and the PYD/YPG also share fighters, who may be fighting with the PKK one week and with the YPG the next.

The PYD-led cantons in northern Syria have also served as a training ground for terrorists who go on to conduct attacks in Turkey, as was the case of Seher Cagla Demir, who killed 37 people in a bombing in the heart of Ankara in March 2016. In the West, there is a narrative that YPG and PKK advances against ISIS are victories for human rights. Juxtaposed against ISIS, many militant and terrorist groups look tame. But the need to defeat ISIS does not erase the fact that both the YPG and the PKK are terrorist organizations. The latter in particular has the blood of thousands of Kurds and Turks on its hands in Turkey alone.

Turkey has also been a victim of ISIS. In 2016, ISIS killed more than 100 people in Turkey—including foreigners. For Turkey, both ISIS and the PKK pose significant, deadly threats. A whitewashing of groups like the YPG and the PKK only serves to elongate conflicts in Syria, Iraq, and Turkey. It is paramount for Turkey and the PKK to return to a peace process that will enable this conflict to be resolved once and for all. For this to happen, the United States needs to stand behind its NATO ally and help create the conditions for peace. This includes heeding Turkish concerns about U.S. support for the YPG while also working with Turkey and other regional actors to negotiate an end to the Syria conflict. As long as there is a war on Turkey's borders, there will be the threat of spillover into Turkey's domestic issues.

The recent detentions and arrests of a number of MPs from the People's Democratic Party (HDP) must be understood in the context of the PKK conflict. Last May,

immunity from criminal prosecution was lifted from over 100 members of the Turkish parliament, including MPs from every political party represented in parliament. Following this move, all affected members except some HDP MPs gave depositions regarding ongoing investigations into potential criminal activities. Turkish courts issued warrants for the HDP MPs in order to secure depositions. Since then, some have been remanded into custody while others have been released.

The HDP is a political party that passed the election threshold to enter the Turkish parliament, and it should continue to be included in the Turkish parliament as such. As a party with a broad Kurdish base, it will likely play an essential role in any new peace process between the Turkish state and the PKK, as it did in the past. Nevertheless, there are concerns about certain HDP members maintaining links to the PKK or otherwise supporting the terrorist group, such as in the case of some HDP members attending the funerals of PKK terrorists. These concerns need to be addressed. It must also be remembered that despite a base that is broadly Kurdish, the HDP is not the de facto representative of all Kurds in Turkey.

Freedom of Expression and the Media

Freedom of expression and the media constitute an important pillar of human rights in Turkey. It is a fundamental freedom guaranteed under the Constitution and other relevant legislation. This does not mean, however, that mistakes have not been made in the past regarding ensuring this fundamental right. The abuses and fabrications of the Ergenekon and Sledgehammer trials, which were carried out by corrupt officials tied to FETO, are just one example.

Today, media in Turkey includes a diverse and wide variety of domestic and foreign print, television, radio, and online news outlets. In Turkey, there are over 7,000 newspapers and journals as well as more than 200 TV stations and more than 1,000 radio stations that reach national and local audiences. Each regularly exercises free speech without intervention from the government.

There are 110,000 Associations and 50,000 foundations currently operating in Turkey. In recent years, Turkey has undertaken a series of comprehensive judicial reforms in line with both international and EU standards and principles for the protection and promotion of freedom of expression and the media. There is no Turkish legislation that includes any provision that would lead to imprisonment of journalists on account of their journalistic work. Everyone is equal before the law without any distinction as to his or her profession.

It is important to note that the postcoup-attempt state of emergency has necessitated extraordinary actions in order to ensure the stability and security of Turkey. Those journalists who have been detained or arrested under the state of emergency have been charged with serious crimes, which include spreading propaganda for terrorist organizations such as FETO and the PKK. Turkey has suffered repeated attacks and loss of life from both of these groups, and it is necessary to take actions that prevent further violence, including by pursuing criminal investigations against those who support these organizations.

Domestic remedies exist for those who believe they have been wrongfully suspected in the anti-terrorism probes. The Inquiry Commission on the State of Emergency Measures addresses applications from citizens who feel they have been wrongly persecuted. This provides an effective domestic legal remedy to any false accusations.

U.S.–Turkey Relations More Important Now than Ever

Today, Turkey is beset by three major terrorist groups—the PKK, ISIS, and FETO. Violent conflicts in Syria and Iraq have direct ramifications for Turkey's own security. Turkey—and Turkish democracy—is experiencing an exceptional period of stress due to these security concerns. Many of the actions taken under the current state of emergency have been pursued in order to return Turkey to a state of security and stability. However, the Turkish government must also be cognizant of how these actions are carried out.

There are concerns that many innocents have been caught up in the Turkish government's efforts to extract members of FETO and other terrorist groups from the ranks of the military, police, judiciary, and academia. It is imperative that the government continue to pursue programs like the Inquiry Commission on the State of Emergency Measures to give legal recourse to citizens who have been negatively affected. Already, 31,000 individuals have been reinstated in their jobs after having been removed under the state of emergency measures, and 300 institutions that were previously closed under the state of emergency have been reopened. While trials and detentions continue, it is essential that the Turkish government works to ensure fair and speedy trials and to prevent undue suffering while individuals remain in custody. Allegations of abuse of prisoners must be addressed when and where they are made.

A strong and stable Turkey will be a more beneficial partner for the United States. It is important, then, for the United States to understand the exceptional situation Turkey is now in and to support its partner in its pursuit of stability. As Turkey reconciles with the events of July 15 and their aftermath while also defending itself against spillover from the conflicts in Syria and Iraq, it is more important than ever for the United States and Turkey to maintain an open dialogue. Officials in both Washington and Ankara need to return to a tenor of solidarity, respect, and shared commitment toward the realization of each country's interests.

As an NATO ally with the second largest military in the alliance, Turkey is a crucial security partner for the United States. A weaker, destabilized Turkey will be a catastrophe not just for citizens of Turkey but for Europe, NATO, and the United States. It is important for both Washington and Ankara to be able to engage in honest but respectful discussions with each other even in the face of disagreements or concerns. As General Joseph Dunford said on a November 2016 visit to Turkey, "an express willingness to work through these issues and share perspectives will mean stability in the region."

The July 15 coup attempt shook Turkey to its core and called into question its democratic resilience. However, the incredibly courageous response shown by the Turkish public as the coup attempt was unfolding made one thing clear: the Turkish people want a strong, free, and fair democracy. The United States remains the preeminent example of such a democracy, and it is more important now than ever that Washington and Ankara maintain their strategic and historic relationship in order to ensure the security of both of their countries.

Ali Cinar is a president of the Turkish Heritage Organization, a U.S.-based nonprofit organization that promotes discussion and dialogue around Turkey's role in the international community and issues of importance in the U.S.–Turkish relationship.



EXPLORING THE ISSUE

Is Turkey Becoming Authoritarian?

Critical Thinking and Reflection

1. Has the constitutional referendum of April 2016 strengthened Turkey's democracy?
2. Do you think Islam and democracy can coexist?
3. Do you think NATO should create mechanisms it can use to monitor the human rights abuses of its members and suspend them if necessary?

Is There Common Ground?

The common ground between the authors in this issue appears to be that they both support the idea of Turkey continuing as a democratic Republic. Obviously, they have different interpretations of the rationale for, and effects of, the 2017 referendum, which passed with a narrow 51–49 percent margin. However, the vote was marred by accusations of fraud when ballots that had not been properly stamped were counted as valid. There were also widespread complaints of the overall unfairness of the referendum campaign, with the "Yes" campaign receiving overwhelmingly more resources and airtime.

Despite the calls of scholars like David Phillips for Turkey to be suspended for its decent into authoritarianism, there appears to be too much mutual interests between the states concerned for that to happen. Turkey protects NATO's eastern flank and effectively controls the influx of Syrian refugees into Western Europe. These states will not risk that level of instability unless the situation becomes completely untenable. The near future is thus likely to be characterized by an uneasy relationship in which NATO and the EU are caught in a Faustian bargain, knowing their populations do not want to see massive uncontrolled influxes of refugees. The danger, of course, is that the Syrian conflict will eventually be resolved and NATO and the EU may wake up with an authoritarian Turkey as a member and close neighbor. The United States and Western states will also have to accept accusations of hypocrisy over human rights—for example, when they complain about the actions of Iranian regime, but continue to sell arms to Saudi Arabia and call President Erdogan to congratulate him on his referendum victory.

Additional Resources

Cagaptay, Soner. (2017). *The New Sultan: Erdogan and the Crisis of Modern Turkey.* I.B. Tauris.

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Brookings: The Turkish Constitutional Referendum, Explained

https://www.brookings.edu/blog/order-from-chaos/2017/04/13/the-turkish-constitutional-referendum-explained/

Foreign Policy: Turkey's Post-Coup Purge and Erdogan's Private Army

http://foreignpolicy.com/2017/07/13/turkeys-post-coup-purge-and-erdogans-private-army-sadat-perincek-gulen/

Republic of Turkey Ministry of Foreign Affairs

http://www.mfa.gov.tr/default.en.mfa

U.S. Department of State: Turkey

https://www.state.gov/p/eur/ci/tu/



Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Is Chaos in the Middle East Largely the Fault of U.S. Policy?

YES: Peter Van Buren, from "How the U.S. Wrecked the Middle East," *The American Conservative* (2015)

NO: Philip Gordon, from "The Middle East Is Falling Apart," *Politico Magazine* (2015)

Learning Outcomes

After reading this issue, you will be able to:

- Explain the Sunni and Shia divide in Islam and how it is affecting Middle East politics.
- Identify the major conflicts in the region and the belligerents involved.
- Assess the impact that the 2003 Gulf War has had on the region.

ISSUE SUMMARY

YES: Peter Van Buren is an author and former U.S. Foreign Service Officer who spent a year in Iraq leading two Provincial Reconstruction Teams. In this article, he argues that the U.S. invasion of Iraq in 2003 opened a Pandora's Box of regional problems with global consequences, which it is still trying to contain and resolve.

NO: Philip Gordon, a senior fellow at the Council on Foreign Relations and former Special Assistant to the President and White House Coordinator for the Middle East, North Africa, and the Gulf Region, believes that such analysis is a reflection of the American tendency to assume that all global events are in some way a product of their actions or inactions. Rather, Gordon suggests that the turmoil affecting the Middle East is the product of a number of trends that are indigenous to the region itself. This realization has important consequences for how the United States should seek to deal with the region.

Perhaps the most challenging part of creating this edition of *Taking Sides* is the task here of writing an introduction to the ensuing debate over Middle East politics that gives a sufficient background to the issue within such a short space.

We can start with a few basics. Like most regions, the boundaries of the Middle East are somewhat divergently defined, but most agree that the region certainly includes all the countries from Iraq in the East to Tunisia and perhaps Algeria in the West. Except for Israel and Lebanon, a large majority of the people of these countries are Arabs, speak Arabic, and are Muslims. It is important to note, though, that most Muslims are not Arabs. Indeed, there are more Muslims in Indonesia, the world's largest predominantly Muslim country, than there are in the entire Middle East.

Muslims are adherents of Islam. They worship a single deity, Allah, and revere Muhammad (c. 570–632) as a prophet who received Allah's teachings in a vision and had them transcribed into the Quran (Koran). However, just as it with "Christian," "Muslim" is an overarching term. Islam includes different groups (faiths, denominations, sects). The most significant division is between the majority Sunnis and the Shiite (Shia) minority. The issues between the two sects involve doctrinal matters beyond our inquiry. What is important here is that the sometimes quiescent Sunni–Shiite rivalry was reignited in 1979 when

the Ayatollah Khomeini led fundamentalist Shiites to power in Iran. One result was a long war with Iraq (1980–1988). One cause was Khomeini's determination to overthrow the Sunni-dominated regime of Saddam Hussein. Beyond this division, there are many others in Islam. For example, the Alawites are a Shia sect that are a minority in mostly Sunni Syria but dominate its government because President Bashar al-Assad is Alawite. This has been a significant factor in the Syrian civil war since 2011.

Islam, again like Christianity, is also divided between traditionalists (fundamentalists) and secularists. Fundamentalists do not believe in the separation of mosque and state. Instead they believe that Muslims should be governed by religious leaders under Islamic religious law (the sharia) interpreted by religious courts. This concept is why Iran's grand Ayatollah is more important politically than its president. Traditionalists also are very conservative socially. They want to preserve their cultural traditions, such as having women cover their faces in public. Some fundamentalists also want to create a Caliphate, a unified political-religious community (*ummah*) of Muslims everywhere governed by Islamic law and a Caliph as successor to Muhammad. That is the goal of the ISIS—the Islamic State in (greater) Syria—the fundamentalist Sunni movement fighting in Eastern Syria and Western Iraq in 2014. Secularists, by comparison, believe that within Islam there can be many Muslim countries and that religious and secular law should be kept separate.

Ethno-nationalism also divides the Middle East. Some of this involves rivalries between countries, including the aforementioned determination of Iraq and Iran to dominate the Persian Gulf region. Other ethno-national divisions are internal. For one, Iraq is divided among Sunnis, Shiites, and Kurds. This last group, which is also found in Turkey, Iran, and elsewhere, is not ethnic Arab, speaks its own language, and practices its own form of Sunni Islam.

The history of the Middle East is also part of the instability in the Middle East and to the animosity some Muslims have to the West, including the United States. Europe's Christian kings waged eight crusades against Muslims beginning in 1195. Christianity's Orthodox emperors of Byzantium and later the Orthodox czars of Russia also clashed with Muslims. Over time, Muslim secular strength declined, and the last vestige of Muslim power was eclipsed when the Ottoman Empire centered in Turkey collapsed after World War I. During the war, the British had promised Arabs independence in return for support, which the Arabs provided. But simultaneously, the British and French betrayed the Arabs and agreed to divide the Middle East into virtual colonies. This experience of betrayal and colonial domination add to many Arabs' sense of being beset by the largely Christian-heritage West. During the last half century, direct political domination ended, but there is a strong sense among many Muslims that Western dominance, led by the United States, has continued through alleged neocolonialist practices such as protecting authoritarian pro-Western regimes in Saudi Arabia and Kuwait and using military force to smite Muslim countries that defy the United States and its European allies, and by favoring and protecting Israel.

It is in the context of this history that this issue debates whether the causes of the chaos we are witnessing across the Middle East today has deep historical roots that are indigenous to the region, or whether they are essentially the product of an ill-advised United States led intervention in 2003 that opened up a Pandora's Box of problems that the international community is still trying to resolve. In the first selection, Peter Van Buren argues that it is the latter. As he elucidates, before the 2003 intervention, the region was experiencing relative stability, while by the time of writing in 2015, Iraq, Syria, and Yemen were all wracked by war. As a result of this the United States and Russia, together with a host of regional powers like Turkey, Saudi Arabia, Iran, and Israel are entangled in a web of, sometimes conflicting, relationships that constantly threaten to escalate into a wider war.

Philip Gordon, in the second selection, suggests that U.S. foreign policy makers and pundits often fall into the trap of what psychologists call hyper-responsibility: believing the United States has more control over the world around it than it actually does. Gordon still believes the United States has made mistakes, of which the 2003 intervention was one, but the stronger "tectonic" forces present in the region that have led to the present chaos have not been caused by the United States, nor can it control them by itself. These forces may take a generation (or generations) to play out and include the collapse of state authority and the erosion of national borders; the Sunni–Shia split; the Sunni–Sunni split; and the collapsing prospects for Middle East peace. Recognizing this will also help the United States adopt more limited and effective goals for dealing with the chaos.

YES

Peter Van Buren

How the U.S. Wrecked the Middle East

A Once Stable Region Descends into Chaos Thanks to Continuing Repercussions from the 2003 Iraq Invasion

What if the United States had not invaded Iraq in 2003? How would things be different in the Middle East today? Was Iraq, in the words of presidential candidate Bernie Sanders, the "worst foreign policy blunder" in American history? Let's take a big-picture tour of the Middle East and try to answer those questions. But first, a request: after each paragraph that follows, could you make sure to add the question "What could possibly go wrong?"

Let the History Begin

In March 2003, when the Bush administration launched its invasion of Iraq, the region, though simmering as ever, looked like this: Libya was stable, ruled by the same strongman for 42 years; in Egypt, Hosni Mubarak had been in power since 1983; Syria had been run by the Assad family since 1971; Saddam Hussein had essentially been in charge of Iraq since 1969, formally becoming president in 1979; the Turks and Kurds had an uneasy but functional ceasefire; and Yemen was quiet enough, other than the terror attack on the USS Cole in 2000. Relations between the United States and most of these nations were so warm that Washington was routinely rendering "terrorists" to their dungeons for some outsourced torture.

Soon after March 2003, when U.S. troops invaded Iraq, neighboring Iran faced two American armies at the peak of their strength. To the East, the U.S. military had effectively destroyed the Taliban and significantly weakened al-Qaeda, both enemies of Iran, but had replaced them as an occupying force. To the West, Iran's decades-old enemy, Saddam, was gone, but similarly replaced by another massive occupying force. From this position of weakness, Iran's leaders, no doubt terrified that the Americans would pour across its borders, sought real diplomatic rapprochement with Washington for the first time since 1979. The Iranian efforts were rebuffed by the Bush administration.

The Precipitating Event

Nailing down causation is a tricky thing. But like the June 1914 assassination of Archduke Franz Ferdinand that kicked off the Great War, the one to end all others, America's 2003 invasion was what novelists refer to as "the precipitating event," the thing that may not actively cause every plot twist to come, but that certainly sets them in motion.

There hadn't been such an upset in the balance of power in the Middle East since, well, World War I, when Great Britain and France secretly reached the Sykes-Picot Agreement, which, among other things, divided up most of the Arab lands that had been under the rule of the Ottoman Empire. Because the national boundaries created then did not respect on-the-ground tribal, political, ethnic, and religious realities, they could be said to have set the stage for much that was to come. Now, fast-forward to 2003, as the Middle East we had come to know began to unravel. Those U.S. troops had rolled into Baghdad only to find themselves standing there, slack-jawed, gazing at the chaos. Now, fast-forward one more time to 2015 and let the grand tour of the unraveling begin!

The Sick Men of the Middle East: It's easy enough to hustle through three countries in the region in various states of decay before heading into the heart of the chaos: Libya is a failed state, bleeding mayhem into northern Africa; Egypt failed its Arab Spring test and relies on the United States to support its antidemocratic (as well as anti-Islamic fundamentalist) militarized government; and Yemen is a disastrously failed state, now the scene of a proxy war between U.S.-backed Saudi Arabia and Iranian-backed

Van Buren, Peter. "How the U.S. Wrecked the Middle East," *The American Conservative*, October 2015. Copyright ©2015 by The American Conservative. Used with permission.

Houthi rebels (with a thriving al-Qaeda outfit and a small but growing arm of the Islamic State [ISIS] thrown into the bargain).

Iraq: Obama is now the fourth American president in a row to have ordered the bombing of Iraq and his successor will almost certainly be the fifth. If ever a post-Vietnam American adventure deserved to inherit the moniker of quagmire, Iraq is it.

And here's the saddest part of the tale: the forces loosed there in 2003 have yet to reach their natural end point. Your money should be on the Shias, but imagining that there is only one Shia horse to bet on means missing just how broad the field really is. What passes for a Shia "government" in Baghdad today is a collection of interest groups, each with its own militia. Having replaced the old strongman prime minister, Nouri al-Maliki, with a weak one, Haider al-Abadi, and with ISIS chased from the gates of Baghdad, each Shia faction is now free to jockey for position. The full impact of the cleaving of Iraq has yet to be felt. At some point expect a civil war inside a civil war.

Iran: If there is any unifying authority left in Iraq, it is Iran. After the initial 2003 blitzkrieg, the Bush administration's version of neocolonial management in Iraq resulted in the rise of Sunni insurgents, Shia militias, and an influx of determined foreign fighters. Tehran rushed into the power vacuum, and, in 2011, in an agreement brokered by the departing Bush administration and carried out by President Obama, the Americans ran for the exits. The Iranians stayed. Now, they have entered an odd-couple marriage with the United States against what Washington pretends is a common foe—ISIS—but which the Iranians and their allies in Baghdad see as a war against the Sunnis in general. At this point, Washington has all but ceded Iraq to the new Persian Empire; everyone is just waiting for the paperwork to clear.

The Iranians continue to meddle in Syria as well, supporting Bashar al-Assad. Under Russian air cover, Iran is increasing its troop presence there, too. According to a recent report, Tehran is sending 2,000 troops to Syria, along with 5,000 Iraqi and Afghan Shia fighters. Perhaps they're already calling it "the Surge" in Farsi.

The Kurds: The idea of creating a "Kurdistan" was crossed off the post-World War I "to do" list. The 1920 Treaty of Sèvres at first left an opening for a referendum on whether the Kurds wanted to remain part of what remained of the Ottoman Empire or become independent. Problem one: the referendum did not include plans for the Kurds in what became Syria and Iraq. Problem two: the referendum never happened, a victim of the so-called Turkish War of Independence. The result: some 20 million angry Kurds scattered across parts of modern Iran, Iraq, Turkey, and Syria.

That American invasion of 2003, however, opened the way for the Kurds to form a virtual independent statelet, a confederacy if you will, even if still confined within Iraq's borders. At the time, the Kurds were labeled America's only true friends in Iraq and rewarded with many weapons and much looking the other way, even as Bush administration officials blathered on about the goal of a united Iraq.

In 2014, the Kurds benefited from U.S. power a second time. Desperate for someone to fight ISIS after Iraq's American-trained army turned tail (and before the Iranians and the Shia militias entered the fight in significant force), the Obama administration once again began sending arms and equipment to the Kurds while flying close air support for their militia, the peshmerga. The Kurds responded by fighting well, at least in what they considered the Kurdish part of Iraq. However, their interest in getting involved in the greater Sunni–Shia civil war was minimal. In a good turn for them, the U.S. military helped Kurdish forces move into northern Syria, right along the Turkish border. While fighting ISIS, the Kurds also began retaking territory they traditionally considered their own. They may yet be the true winners in all this, unless Turkey stands in their way.

Turkey: Relations between the Turks and the Kurds have never been rosy, both inside Turkey and along the Iraqi-Turkish border.

Inside Turkey, the primary Kurdish group calling for an independent state is the Kurdistan Workers party (also known as the PKK). Its first insurgency ran from 1984 until 1999, when the PKK declared a unilateral cease-fire. The armed conflict broke out again in 2004, ending in a cease-fire in 2013, which was, in turn, broken recently. Over the years, the Turkish military also carried out repeated ground incursions and artillery strikes against the PKK inside Iraq.

As for ISIS, the Turks long had a kind of one-way "open-door policy" on their border with Syria, allowing Islamic State fighters and foreign volunteers to transit into that country. ISIS also brokered significant amounts of black market oil in Turkey to fund itself, perhaps with the tacit support, or at least the willful ignorance, of the Turkish authorities. While the Turks claimed to see ISIS as an anti-Assad force, some felt Turkey's generous stance toward the movement reflected the government's preference for having anything but an expanded Kurdish presence on

its border. In June of this year, Turkish President Recep Erdogan went as far as to say that he would "never allow the establishment of a Kurdish state in northern Syria."

In light of all that, it's hardly surprising that early Obama administration efforts to draw Turkey into the fight against ISIS were unsuccessful. Things changed in August 2015, when a supposedly anti-ISIS cooperation deal was reached with Washington. The Turks agreed to allow the Americans to fly strike missions from two air bases in Turkey against ISIS in Syria. However, there appeared to be an unpublicized quid pro quo: the U.S. would turn a blind eye to Turkish military action against its allies the Kurds. On the same day that Turkey announced that it would fight the Islamic State in earnest, it also began an air campaign against the PKK.

Washington, for its part, claimed that it had been "tricked" by the wily Turks, while adding, "We fully respect our ally Turkey's right to self-defense." In the process, the Kurds found themselves supported by the U.S. in the struggle with ISIS, even as they were being thrown to the (Turkish) wolves. There is a Kurdish expression suggesting that Kurds have "no friends but the mountains." Should they ever achieve a trans-border Kurdistan, they will certainly have earned it.

Syria: Through a series of events almost impossible to sort out, having essentially supported the Arab Spring nowhere else, the Obama administration chose to do so in Syria, attempting to use it to turn President Bashar al-Assad out of office. In the process, the Obama administration found itself ever deeper in a conflict it couldn't control and eternally in search of that unicorn, the moderate Syrian rebel who could be trained to push Assad out without allowing Islamic fundamentalists in. Meanwhile, al-Qaeda spin-offs, including the Islamic State, found haven in the dissolving borderlands between Iraq and Syria, and in that country's Sunni heartlands.

An indecisive Barack Obama allowed America's involvement in Syria to ebb and flow. In September 2013, on the verge of a massive strike against the forces of the Assad regime, Obama suddenly punted the decision to Congress, which, of course, proved capable of deciding nothing at all. In November 2013, again on the verge of attacking Syria, the president allowed himself to be talked down after a gaffe by Secretary of State John Kerry opened the door to Russian diplomatic intercession. In September 2014, in a relatively sudden reversal, Obama launched a war against ISIS in Syria, which has proved at best indecisive.

Russia: That brings us to Vladimir Putin, the Syrian game-changer of the moment. In September, the Russian president sent a small but powerful military force into a neglected airfield in Latakia, Syria. With "fighting ISIS" little more than their cover story, the Russians are now serving as Assad's air force, as well as his chief weapons supplier and possible source of "volunteer" soldiers.

The thing that matters most, however, is those Russian planes. They have essentially been given a guarantee of immunity to being shot down by the more powerful U.S. Air Force presence in the region (as Washington has nothing to gain and much to worry about when it comes to entering into open conflict with the Russians). That allows them near-impunity to strike when and where they wish in support of whom they wish. It also negates any chance of the United States setting up a no-fly zone in parts of Syria.

The Russians have little incentive to depart, given the free pass handed them by the Obama administration. Meanwhile, the Russian military is growing closer to the Iranians with whom they share common cause in Syria, and also the Shia government in Baghdad, which may soon invite them to join the fight there against ISIS. One can almost hear Putin chortling. He may not, in fact, be the most skilled strategist in the world, but he's certainly the luckiest. When someone hands you the keys, you take the car.

World War I

As in imperial Europe in the period leading up to the First World War, the collapse of an entire order in the Middle East is in process, while forces long held in check are being released. In response, the former superpowers of the Cold War era have once again mobilized, at least modestly, even though both are fearful of a spark that could push them into direct conflict. Each has entangling regional relationships that could easily exacerbate the fight: Russia with Syria, the United States with Saudi Arabia and Israel, plus NATO obligations to Turkey. (The Russians have already probed Turkish airspace and the Turks recently shot down a drone coyly labeled of "unknown origin.")

Imagine a scenario that pulls any of those allies deeper into the mess: some Iranian move in Syria, which prompts a response by Israel in the Golan Heights, which prompts a Russian move in relation to Turkey, which prompts a call to NATO for help . . . you get the picture. Or imagine another scenario: with nearly every candidate running for president in the United States growling about the chance

to confront Putin, what would happen if the Russians accidentally shot down an American plane? Could Obama resist calls for retaliation?

As before World War I, the risk of setting something in motion that can't be stopped does exist.

What Is This All about Again?

What if the United States hadn't invaded Iraq in 2003? Things would undoubtedly be very different in the Middle East today. America's war in Afghanistan was unlikely to have been a big enough spark to set off the range of changes Iraq let loose. There were only some 10,000 America soldiers in Afghanistan in 2003 (5,200 in 2002) and there had not been any Abu Ghraib-like indiscriminate torture, no equivalent to the scorched earth policy in the Iraqi city of Fallujah, nothing to spark a trans-border Sunni–Shia–Kurd struggle, no room for Iran to meddle. The Americans were killing Muslims in Afghanistan, but they were not killing Arabs, and they were not occupying Arab lands.

The invasion of Iraq, however, did happen. Now, some 12 years later, the most troubling thing about the current war in the Middle East, from an American perspective, is that no one here really knows why the country is still fighting. The commonly stated reason—"defeat ISIS"—is hardly either convincing or self-explanatory. Defeat ISIS why?

The best Washington can come up with are the same vague threats of terrorism against the homeland that have fueled its disastrous wars since 9/11. The White House can stipulate that Assad is a bad guy and that the ISIS crew are really, really bad guys, but bad guys are hardly in short supply, including in countries the United States supports. In reality, the United States has few clear goals in the region, but is escalating anyway.

Whatever world order the United States may be fighting for in the Middle East, it seems at least an empire or two out of date. Washington refuses to admit to itself that the ideas of Islamic fundamentalism resonate with vast numbers of people. At this point, even as U.S. TOW missiles are becoming as ubiquitous as iPads in the region, American military power can only delay changes, not stop them. Unless a rebalancing of power that would likely favor some version of Islamic fundamentalism takes hold and creates some measure of stability in the Middle East, count on one thing: the United States will be fighting the sons of ISIS years from now.

Back to World War I. The last time Russia and the United States both had a powerful presence in the Middle East, the fate of their proxies in the 1973 Yom Kippur War almost brought on a nuclear exchange. No one is predicting a world war or a nuclear war from the mess in Syria. However, like those final days before the Great War, one finds a lot of pieces in play inside a tinderbox.

Now, all together: What could possibly go wrong?

Peter Van Buren is an author and former U.S Foreign Service Officer who spent a year in Iraq leading two Provincial Reconstruction Teams.



Philip Gordon

NO

The Middle East Is Falling Apart

America Isn't to Blame. There's No Easy Fix

As news out of the Middle East goes from bad to worse—the humanitarian disaster in Yemen, Libya's disintegration, the fall of Ramadi to ISIL, take your pick—the inevitable American tendency, especially in the political season, is to attribute all these developments to U.S. policy choices. Former Defense Secretary Robert Gates said in May the United States has "no Middle East Strategy at all," the Washington Post editorial page explains the fall of Ramadi not as the result of an Iraqi dynamic but as a consequence of U.S. strategy and Republican candidates are of course tripping over each other to attribute the region's unraveling to the "weakness" and lack of resolve of the Obama administration.

Negative outcomes certainly require critical examination of policy choices, and no one in their right mind would suggest the outcomes in the Middle East today are anything but negative. That said, what most of the current critiques have in common are an assumption that U.S. policy is the most relevant variable in explaining what is going on—it's not—and an utter failure to present an alternative approach that would work.

The harsh reality is that the Middle East today is going through a period of tectonic and destructive change. If I took away anything from two years as the White House's coordinator for Middle East policy, it's that U.S. policy is not the main source of this change and the United States has no good options for dealing with it. Some of the proposed remedies for the region's woes, such as U.S. military intervention in an effort to "transform" or "remake" the region or simply to impress our foes, would likely make things worse. This should be clear from the U.S. effort to do so in Iraq just over a decade ago. The lessons of that war seem to have been bizarrely forgotten by many today (though almost all the Republican presidential candidates seem to want to disown the results of the Iraq war while embracing the policy approach that produced it).

Whereas in other fields of human endeavor—take medicine, for example—we seem to accept that there are certain problems and challenges that we did not create and cannot entirely resolve (and that trying to do so sometimes makes things worse), the U.S. policy debate about the Middle East suffers from the fallacy that there is an external, American solution to every problem—even when decades of experience, including recent experience, suggest that this is not the case.

Accepting that the United States is not to blame for, and cannot resolve, every problem in the Middle East is not a prescription for inaction or resignation. The United States remains the world's most important power and has unique capabilities that give it an unmatched ability and responsibility to play a key role in a region where critical US interests are at stake. Unfortunately, we cannot master the historical forces that probably mean the region will be plagued by instability for years or even decades to come. But we can and should manage this instability as best we can and protect our core interests, which include defending our allies, preventing regional war, keeping sea lanes open, avoiding nuclear proliferation and preventing a terrorist safe haven from which the United States or its allies could be attacked. Such an approach might not sound like a path to presidential glory and it does not make for much of a campaign bumper sticker. But it's both the least and the most we can do. We should know by now that trying to do much more would likely come at great human and financial cost, produce unintended consequences and fail to work.

The Great Unraveling

What explains the historic disorder we're seeing in the Middle East today? Four interrelated trends are most relevant. What we should understand is that the United States

Gordon, Philip. "The Middle East is Falling Apart: America Isn't to Blame," *Politico*, June 2015. Copyright ©2015 by Politico LLC. Used with permission.

is not primarily responsible for any of them and can do little to reverse their course.

The collapse of state authority and erosion of borders. For nearly 100 years, the modern Middle East has been organized around a state system put in place by the Western powers after the Ottoman Empire collapsed. The borders of new states like Iraq, Jordan, Syria, and Lebanon made little sense, but they were internationally recognized, and—for all the new states' internal tensions—for many decades they remained intact. These states were relatively stable; they had agreed upon territories (save for some border disputes), flags, anthems, and authoritarian leaders, some of whom (Mubarak, Assad, Saddam Hussein, Gaddafi, Ben Ali, Saleh, etc.) stayed around for a very long time.

That post-Ottoman order is now falling apart—largely due to the consequences of the Arab Spring, when Arab publics finally rose up in protest against this artificial division. The United States embraced the Arab Spring, but it certainly did not create it, and it had little to do with the democratic trends, rise in political awareness or frustration with the failed governance that led to the revolt. In that sense, I always found it strange when some critics complained about our "throwing Mubarak under the bus," as if the United States just one day decided to change Egypt's leadership, or could have prevented it when the Egyptian public decided to do so.

In any case, the result of this revolution has not been the increased freedoms many hoped to see but rather the collapse of state authority and the unraveling of national borders. The state called "Syria" no longer corresponds to its official borders and likely never will again. A real map of Syria today—like the ones produced on a regular basis for policy makers—would show something more like "Assadistan," "ISISstan," "Nusrahstan," "Kurdistan," and so on, but not a political entity called "Syria." The state of Iraq has also essentially broken apart, and Baghdad has little sway in the Kurdish region or in the Sunni-majority Anbar or Ninewa provinces. The state structures of Libya and Yemen no longer exist and may not ever be put back together again. This particular trend is captured well in an only slightly exaggerated recent headline in The Onion: "Everyone in Middle East Given Own Country in 317,000,000-state solution." We're not there yet. But as much as we can and should try to avoid it, it's now more likely that other states will collapse than it is that the now-broken states will be put back together again.

The Sunni–Shia split. The Sunni–Shia split is hardly a new trend—it's been going on since the 7th century, when the Prophet Mohammad's followers failed to agree on his rightful successor. Nor it is necessarily worse than ever—the tensions today still fall short of periods like the late 18th century, when Wahhabi tribes from the Arabian Peninsula were sacking Shia cities like Karbala and Najaf in today's Iraq. But there is no question that this historic phenomenon that has risen and fallen in intensity over the years has entered a new and particularly dangerous phase. The latest escalation started with the 1979 revolution in Iran and the subsequent Iran–Iraq war, but it was given its real near-term emphasis by the 2003 Iraq war, which put the majority Shia back in charge in Baghdad and thus tipped the sectarian balance in the region. (Ironically, this was one of the few major trends we did have a major role in producing.) By doing so, it both spurred and allowed the development of extremist Sunni groups like al-Qaeda in Iraq and its successor ISIL, whose attacks on Shia only reinforce this literally vicious circle.

The Arab Spring in 2011, and the collapse in state authority it produced, further exacerbated sectarianism: As insecurity rose in the post-authoritarian chaos, people have gravitated to their kin—producing the horrible sectarian violence we now see in Syria, Iraq, and Yemen. The growing Sunni–Shia divide—and the growing Sunni fear of Shia Iran—is summed up by the narrative heard by any traveler to parts of the Sunni world that Iran and the Shia now control "four Arab capitals"—Baghdad, Damascus, Beirut, and Sana'a—and are looking to control more. The narrative is exaggerated (The Sunnis have not called the shots in Damascus and Beirut for a long time) but reflects a genuine fear of Iranian (Shia) hegemony, that the Sunnis are determined to resist—as we see in the Sunni coalitions now at war directly or indirectly in Syria, Iraq, and Yemen. The Saudi-led intervention in Yemen—supported by all the Sunni states in the region—is best seen not as a plan to bring peace to Yemen but simply to put down a marker to Iran. The Sunni world will not tolerate further Shia encroachment in the region.

The Sunni–Sunni Split. Most of the focus in the region has understandably been on the real divide between Sunni and Shia, but the Sunni–Sunni split may be just as important. Al Qaeda, after all, and now ISIL, are Sunni groups who target the Sunni regimes they believe are beholden to the West and not true to Islam. The Sunni regimes are thus fighting back, including by bombing ISIL in Syria and Libya. In Sunni countries that do not have large Shia populations, such as Egypt and Jordan, it's not the "Shia threat" but the Sunni–Sunni split that has leaders and populations worried.

An even more significant Sunni–Sunni split is a growing ideological battle between the region's Sunni regimes and the Sunni version of political Islam. The al-Sisi regime in Egypt, for example, backed by Saudi Arabia and the United Arab Emirates, views the (Sunni) Muslim

Brotherhood as a mortal enemy—one it is determined to crush at all costs. Other Sunni states, however—Turkey and Qatar—are sympathetic to the Brotherhood, and thus entirely at odds with their Sunni brethren in Riyadh and Abu Dhabi. They opposed Sisi's takeover in Egypt (a takeover Turkey still refuses to recognize) and support rival Islamist groups in Libya and Tunisia that the Saudis and Emiratis see as adversaries.

The resulting sets of alliances across the region are thus hugely complicated, but if you're following this at home: In places divided among Sunni and Shia (like Syria, Iraq, or Yemen) the Sunni states (including Turkey and Qatar) all line up in a coalition against the Shia. But where there are no or few Shia, like in Egypt or Libya, the Sunni harmony breaks down, and the Sunnis are deeply divided amongst themselves. Because of this, Qatar and Turkey are fighting a sort of cold war with Saudi Arabia, Bahrain, and the UAE. In March 2014, those three Gulf countries withdrew their ambassadors from Doha to protest what they considered to be Qatar's support for threatening Islamist movements, including through Doha's hosting of the Al Jazeera broadcast network and its support for the Muslim Brotherhood in Egypt. The ambassadors have since returned, but deep tensions remain, as do the violent proxy conflicts in Libya and Egypt. Such conflicts are hard enough to manage when there is unity among outside powers or at most an external sectarian divide—they become almost impossible when the Sunni states themselves are divided.

The Collapsing Prospects for Middle East Peace. A fourth trend, different from the others, deserves to be mentioned in any assessment of the current or future Middle East disorder: the fading prospect of peace between Israelis and Palestinians. For two decades, the goal of both the United States and the parties was a negotiated solution to the Israeli–Palestinian conflict based on the 1993 Oslo accords. The parties were within reach of an agreement in 2000, close again in 2008, and Secretary of State John Kerry made Herculean efforts last year to try again, but he was unable to close big gaps on all the key issues. The prospect of a negotiated solution now seems exceedingly remote.

There are now over 350,000 Israeli settlers living in the West Bank and they are dispersed in such a way as to make a contiguous Palestinian state virtually impossible—even setting aside the even more complicated question of East Jerusalem, where Israelis continue to build. Israel has just elected the most right-wing government in its history, made up of parties committed to further settlement growth and in several cases opposed to the very concept of a two-state solution. Even putting aside the pre-election controversy of his remarks appearing to rule out a two-state solution, Prime Minister Benjamin Netanyahu has made clear he does not believe there is a chance to negotiate one anytime soon.

On the other side, President Mahmoud Abbas has largely given up on the prospect of a negotiated peace. With his legitimacy in question—for failing to deliver peace, halt Israeli settlement growth or hold a long overdue election—he would be unable to impose an agreement on his people even if he could negotiate one (which he knows he can't). Eighty years old and with little to lose, Abbas has already begun to pursue international recognition—through membership in the United Nations General Assembly, the International Criminal Court, and other international bodies—as an alternative to pursuing peace negotiations with Israel. And this is to say nothing about Gaza, where last summer's brutal war—which killed over 2,000 Palestinians and saw indiscriminate rocket and tunnel attacks against Israeli cities—foreshadowed what could still be to come. The collapse of the Palestinian Authority and a full reoccupation of the West Bank—which is where things seem to be headed—would not only threaten Israel's future but fuel Arab extremism and further destabilize a region already in free fall.

What We Can Do and What We Cannot

A large number of Americans look at these trends and want to give up. They conclude the region is just too complicated and too dysfunctional, and we should just get out. These feelings came home to me most clearly in the summer of 2013, when the Obama administration proposed using force to respond to Syria's use of chemical weapons. For all the talk of the need for bold action or leadership in Congress and among other critics, the overwhelming public—and Congressional—response was an absolute refusal to support even limited strikes. The arguments we heard—and the percentages of people opposed to intervention, as indicated by public polling and reported calls to Congressional offices—were reminiscent of the isolationism of the 1930s. The mindset was that we tried intervention before, the region is not worth it and we should just stay out. While the public mood has since shifted somewhat in response to concerns about the threat from ISIL, there is still a strong feeling that any involvement in the Middle East is too much. I understand this view, but it goes too far.

Other Americans take the opposite approach—increasingly so as memories of the 2003 Iraq war recede and the perceived threat from ISIL rises. These increasingly vocal critics argue that U.S. restraint is part of the

problem and call for a more interventionist approach that would include more troops in Iraq, air strikes, or even ground forces against Assad in Syria, and potentially the use of force to destroy the Iranian nuclear program. Just listen to the next forum for Republican presidential candidates—let alone even more hawkish voices like Senators John McCain, Lindsey Graham, or the neoconservatives who supported the war in Iraq—and you'll hear a vigorous appeal for a more "muscular" and interventionist approach.

Given the stakes, the desire to "do something" is understandable but this approach is potentially even more dangerous than walking away. Only recently, we saw that U.S. interventions in the region (Iraq) can be enormously costly ($1 trillion, 5,000 U.S. lives, half-a-million Iraqi lives and the United States' global reputation) and only bring unintended consequences—like the exacerbation of the Sunni–Shia divide and the creation of ISIL. Using force to get rid of Assad is a noble goal and no doubt would remove one real problem—but it would surely create many others, including potentially even more instability and sectarianism in Syria, as well as creating genuine U.S. ownership of the problem. The notion that limited air strikes would lead Assad to abandon power—and turn leadership over to moderates—would be a particularly egregious case of placing hope over experience.

When implying the United States can "fix" Middle Eastern problems if only it "gets it right" it is worth considering this: In Iraq, the United States intervened and occupied, and the result was a costly disaster. In Libya, the United States intervened and did not occupy, and the result was a costly disaster. In Syria, the United States neither intervened nor occupied, and the result is a costly disaster. This record is worth keeping in mind as we contemplate proposed solutions going forward.

So what to do? There is no simple answer. There are historic, tectonic changes going on that will take a generation or generations to play out. But this does not mean we can or should give up, either.

I would propose that the United States identify its core interests in the region and focus on goals it (and often only it) can reasonably accomplish. My list, not in any particular order, would include the following:

1. *Deterring regional war and protecting our allies.* We cannot stop civil wars, but we can still prevent interstate war—and have largely done so successfully for decades. Iraq's invasion of Kuwait was the exception that proved the rule—and the decisive U.S. response reinforced deterrence since. Pulling out our 36,000 troops and major air bases in the region would diminish our ability to do this and make the region safe for major war—which would dwarf in intensity even the current disorder. At the recent Camp David summit with Gulf leaders, President Obama was right to commit to use all elements of our power to protect our partners against external aggression. And this commitment obviously applies to Israel as well; whatever our differences over Iran and the peace process, the U.S. commitment to Israel's security and "qualitative military edge" helps to prevent intrastate conflict.
2. *Keep sea lanes open.* We must also maintain our military presence in the region and commitment to preserve commercial freedom. More than 20 percent of the world's oil supply (and more than 30 percent of oil shipped by sea) passes through the Strait of Hormuz, which without American military power would be under constant threat. Even with growing U.S. energy independence, the fungibility of global energy markets means a closure of Middle East sea-lanes would have a devastating impact on the U.S. economy. Only the United States has the power to do this, and it should do so out of self-interest and collective interest as well.
3. *Preventing nuclear proliferation.* As bad as things are in the region, they would be unimaginably worse if multiple countries, or even one (Iran) had nuclear weapons. If Iran got a nuclear weapon others in the region would likely eventually move in that direction as well, increasing the possibility of an actual nuclear war. Even an Iranian nuclear weapon alone would be a threat, not because Tehran is likely crazy enough to actually use it, but because our ability to contain and deter Iranian aggression in the region would be severely limited if Iran had a nuclear deterrent. The best way to achieve this goal—as I have written previously in POLITICO—is the sort of long-term, verifiable agreement blocking all of Iran's pathways to a bomb.
4. *Preventing a terrorist safe haven.* We cannot kill or capture every terrorist in the Middle East. But we can and must prevent the creation of a terrorist safe haven from which terrorists could plot and execute mass destruction attacks against the United States and its allies. That is why the United States is right to be leading a coalition and conducting air strikes (which it has an unparalleled ability to do) against ISIL in both Syria and Iraq, while also working to cut off the group's finances, discredit its ideology, stop foreign fighters, and bolster the Iraqi

government. Critics are right to say our ability to destroy ISIL is limited by the lack of United States or other ground forces, but they don't explain how the presence of such forces would work out any better than they did when we went into Iraq. We also need to bolster regional partners—Jordan, Tunisia, the Gulf States—that are at risk from ISIL and can be more effective partners in the fight against it. If the breeding ground for terrorism is fertile due to ineffective, unresponsive, and corrupt governance, all the military force in the world will not contain it.

5. *Avoiding Israeli–Palestinian conflict.* The United States has an interest in a stable and secure Israel and a stable and secure Palestinian state. While we can do little immediately to bring about a two-state solution, we should at least try to preserve its prospects for when conditions might be ripe. That might mean supporting a U.N. Security Council resolution with balanced and fair parameters for a diplomatic solution. It certainly means trying to preserve the viability of a Palestinian entity that eschews violence, recognizes Israel, and respects past agreements, as well as trying to persuade Israel—its public, if the current government is out of reach—that there is no way it can remain a secure Jewish and democratic state—at peace with its neighbors—if it tries to govern the millions of Palestinians in Gaza and the West Bank.

This may not seem like an ambitious or particularly glorious list. It is not a "silver bullet" and will never sound as compelling a promise to "transform" or "remake" the Middle East. But, for all of the reasons explained above, the Middle East disorder is likely to persist for years and decades to come. We can't make that reality go away, but we can preserve our core interests, try to contain and limit the damage, avoid missteps that would lead to unintended consequences and harbor our precious human, military, and financial resources for strength at home and other great challenges abroad. A focus on core U.S. interests is not a perfect solution for the Middle East—but it is better than all the alternatives.

Philip Gordon is a senior fellow at the Council on Foreign Relations and former special assistant to the President and White House Coordinator for the Middle East, North Africa, and the Gulf Region.



EXPLORING THE ISSUE

Is Chaos in the Middle East Largely the Fault of U.S. Policy?

Critical Thinking and Reflection

1. Do you think the Middle East would be relatively more peaceful today had the United States not intervened in 2003?
2. Some argue that as Al Qaeda attacked the United States before the 2003 Gulf War that this proves the situation in the Middle East was far from stable. Do you agree?
3. Do you believe the region will only achieve stability when the majority of its countries become democratic?
4. Do you think it would be better for the region if the United States withdrew all its forces, as well as its support for Israel?

Is There Common Ground?

There does appear to be significant common ground between the authors regarding their critiques of U.S. interventions in the Middle East. Both authors accept that the United States has historically played a less than constructive role when it has intervened in the region. They would both probably agree that to a large extent this is due to the United States' lack of understanding and appreciation for the region's complex history, politics, cultures, and religions. All of this is a reminder of just how important it remains to have regional specialists in the U.S. State Dept. and Pentagon, who can help avoid these mistakes and foreign policy decision-makers who are receptive to their advice.

The difference between the authors rests on just how *destructive* U.S. involvement has been. As Van Buren states in his article, the U.S. intervention was the precipitating cause of the chaos we see today. Gordon, on the other hand, sees the U.S. intervention as little more than a catalyst that has aggravated an already combustible region. Who do you think most accurately assesses the impact of the 2003 intervention and the U.S. role in general?

Additional Resources

Lesch, David. W. and Mark L. Haas eds. (2013). *The Middle East and the United States: History, Politics and Ideologies*. Westview Press.

Looney, Robert ed. (2014). *Handbook of US-Middle East Relations*. Routledge.

Migdais, Joel S. (2014). Shifting Sands: The United States in the Middle East. Columbia University Press.

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Best of History—Middle East

www.besthistorysites.net/index.php/modern-history / middle-east-conflict

Middle East—Al Jazeera

www.aljazeera.com/news/middleeast/

Middle East—BBC.com

www.bbc.com/news/world/middle_east/

Unit 2

UNIT

Economic Issues

International economic issues have an immediate and personal effect on individuals in ways that few other types of issues do. These issues include such factors as foreign trade, the flow of investment capital across borders, the distribution of flow of oil and other vital resources internationally, and the relative values (exchange rate) of currencies. Because each country's strength, absolutely and relatively, is based in significant part on its economic strength, domestic economic issues, and policy are also part of the global equation.

International economics has always been a factor in world affairs, but it has become even more central in recent times. Trade, investment, and monetary exchange have all skyrocketed in the last century. As a result, the intertwining of countries economically has proceeded to the point that it is referred to as globalization. This phenomenon also has cultural, environmental, and other aspects.

Another change is the spread of capitalism, at least restrained capitalism, as the dominant economic model. Communism as a model is near dead, and socialism is teetering. Whether this change is good, and for whom, is more debatable.

Economic cooperation is not always the norm, however. Rivalries for resources and other factors cause conflict. Countries also use their economic resources as instruments of their foreign policy. One recent example is the economic sanctions the United States and, to a lesser degree, Western Europe have levied against Russia for its actions in Ukraine. One reason Western Europe has not responded as strongly as the United States to Russia's actions is that the Europeans depend on natural gas from Russia and are wary of Moscow's threats to turn off that energy supply in retaliation for sanctions.

Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Is Free Trade Helping to End World Poverty?

YES: The World Bank Group and World Trade Organization Staff, from "The Role of Free Trade in Ending Poverty," *World Trade Organization* (2015)

NO: Ian Fletcher, from "Free Trade Isn't Helping World Poverty," *Huffington Post* (2011)

Learning Outcomes

After reading this issue, you will be able to:

- Explain the liberal arguments in favor of free trade.
- Explain "neoliberalism" and the "Washington Consensus."
- Explain the Mercantilist and Neo-Marxist criticisms of free trade

ISSUE SUMMARY

YES: In their report, The World Bank Group and World Trade Organization staff make the case for the continued success of free trade in helping to end global poverty. They thus conclude that much deeper economic integration and lowering of trade barriers must occur if we are to reach the goal of having less than 3 percent of the world's population living in poverty by 2030.

NO: Ian Fletcher, who sits on the advisory board of the Coalition for a Prosperous America, an organization dedicated to reforming American trade policies, argues to the contrary that free trade does not work as a global anti-poverty strategy. Rather he suggests that the greatest strides in poverty reduction have occurred in those states that have adopted mercantilist policies and that free trade is also leading to greater inequality between rich and poor states.

Globalization is a process that is diminishing many of the factors that divide the world. Advances in travel and communication have made geographical distances less important, people around the world increasingly resemble one another culturally, and the United Nations and other international organizations have increased the level of global governance. Another aspect, economic integration, is the most advanced of any of the strands of globalization. Tariffs and other barriers to trade have decreased significantly since the end of World War II (WWII). As a result, all aspects of international economic exchange have grown rapidly. For example, global trade, measured in the value of exported goods and services, has grown around 2000 percent since the mid-20th century and now reaches over $17 trillion annually. Global trading of currencies has surpassed $5 trillion per day.

In this liberalized atmosphere, huge multinational corporations (MNCs) have come to dominate global commerce. Just the top 500 MNCs have combined annual sales of over $15 trillion. The impact of all of these changes is that the economic prosperity of almost all countries and the individuals within them is heavily dependent on what they import and export, the flow of investment in and out of a country, and the exchange rates of currency of each country against the currencies of other countries.

The United States has been at the vanguard of pushing for free trade for over 60 years. Its desire to reduce

trade barriers emerged during and after WWII as a means to prevent a repeat of the Great Depression, which many believed had sown the seeds of authoritarianism in Europe and eventually led to WWII. Based on the Liberal economic theories of the 18th century, British economists, Adam Smith and David Ricardo, advocates for free trade believed that the best way to increase global wealth was to reduce protectionist trade barriers and allow states to concentrate on producing those goods in which they had a comparative advantage. In this "win–win" environment, all states would become wealthier and increasingly dependent on one another for their future economic well-being. Liberals also believed that such economic interdependence would encourage states to maintain peaceful relations, so as not to upset their mutually advantageous trading relationships.

The United States thus took the lead in establishing a new post-WWII international economic system, and helped found global institutions designed to ensure its success. These included the Bretton Woods institutions, the International Monetary Fund (IMF), and World Bank (WB), which were designed to help manage currencies and aid the poorest states to develop economically. In 1947, the General Agreement on Tariffs and Trade was established, which eventually became the World Trade Organization (WTO) in 1995 as free trade continued to expand.

During the latter half of the 20th century, the movement toward economic globalization was strong and there were few powerful voices opposing it. Western leaders like Ronald Reagan and Margaret Thatcher in the 1980s combined these old ideas of international free trade with the more modern domestic policies of privatization, austerity, and deregulation in an approach that became known as "neoliberalism."

However, since at least the turn of the century, critical voices opposing free trade and neoliberalism have become increasingly influential. These critics can be grouped into two general schools of thought. The first are the Economic Nationalists (formerly Mercantilists) who view global economic relations through a Realist lens. For them, the world is a competitive environment in which states must manage their trade through protectionism to ensure they do not lose out to other countries, especially those that pose a military threat. For example, Economic Nationalists have focused national attention on the US-Chinese annual trade deficit, which has grown from $40 billion 1996 to nearly $350 billion in 2016. From a Realist perspective, complaining about Chinese aggression while handing them such large sums of money to spend on their military simply makes no sense.

The second critical school of thought can be broadly categorized as Neo-Marxist. In what is a testimony to the continuing relevance of the 19th-century German political philosopher, Karl Marx, the various branches of this school all agree with the central premise of Marx's analysis of capitalism as a system of exploitation. They thus focus on the inequalities that are perpetuated and exacerbated by the spread of free trade and globalization. For this school, institutions like the IMF and WB have not helped poor states develop, but instead locked them into relationships of even greater dependency in which they can be exploited for their natural resources and cheap labor. Neo-Marxists thus highlight not only the growing level of inequality between countries but also the within them too.

It is in the context of these varying perspectives on free trade that the debate in this issue occurs. The question is whether free trade has helped the world's poorest people or whether the improvements that have been witnessed over the last 30 years are, in fact a product of the more mercantilist policies adopted by developing nations like China and India. In the first selection, members of staff at the World Bank Group and WTO argue that around one billion people have escaped extreme poverty since 1990 mainly because of the growth of international free trade over that time. Nevertheless, they do acknowledge that significant obstacles exist to helping the one billion or so people who remain in that condition. Their report thus suggests a number of policies that can be adopted by states in order to better integrate the extreme poor into the global economy.

Ian Fletcher, a former Economist for the Coalition for a Prosperous America, argues that the gains in eradicating extreme poverty that have been witnessed are mostly the product of both a statistical sleight of hand and the mercantilist policies adopted by populous countries like China. Fletcher also criticizes the growth in inequality that has occurred between the rich and poor states, and within states themselves. He writes derisively of the effects of the "Washington Consensus" (a name given to the neoliberal approach of the Bretton Woods institutions and U.S. Treasury Dept.) on poor states that have endured it through "structural adjustment" packages forced upon them.

YES

The World Bank Group and World Trade Organization Staff

The Role of Free Trade in Ending Poverty

The expansion of international trade has been essential to development and poverty reduction. Today's economy is unquestionably global. Trade as a proportion of global GDP has approximately doubled since 1975. Markets for goods and services have become increasingly integrated through a fall in trade barriers, with technology helping drive trade costs lower. But trade is not an end in itself. People measure the value of trade by the extent to which it delivers better livelihoods, through higher incomes, greater choice, and a more sustainable future, among other benefits.

For the extreme poor living on less than $1.25 a day, the central value of trade is its potential to help transform their lives and those of their families. In this way, there is no doubt that the integration of global markets through trade openness has made a critical contribution to poverty reduction. The number of people living in extreme poverty around the world has fallen by around one billion since 1990. Without the growing participation of developing countries in international trade, and sustained efforts to lower barriers to the integration of markets, it is hard to see how this reduction could have been achieved.

Trade Can Continue to Play a Key Role in Poverty Reduction

In 2011 (the most recent year for which comprehensive data are available), around one billion people remained in extreme poverty—just under 15 percent of the world's population. The World Bank Group has adopted the goal of reducing this figure to less than 3 percent by 2030, and the concept is prominent in discussions underway this year on the post-2015 Sustainable Development Goals. This report, jointly written by the World Bank Group and the World Trade Organization, explores how sustained efforts to lower trade costs and integrate global markets can maximize the gains for the extreme poor. It offers strategies on how to support further integration of the poor into global trade by lowering trade costs in a way that maximizes the gains and minimizes the risks, with a particular focus on the work of the World Trade Organization and the World Bank Group.

This report has three key messages:

1. A sustained effort to deepen economic integration and further lower trade costs is essential for ending poverty. Strong growth in developing countries will be needed to achieve the end of poverty, and trade is a critical enabler of growth, opening up opportunities for new and better work for the poor. Although great progress has been made in reducing trade costs and integrating low-income countries into the global economy, more needs to be done.
2. Lowering tariffs and non-tariff barriers between countries are essential elements of this agenda, but this must form part of a wider approach that recognizes the specific constraints facing the extreme poor—and for many, their disconnection from markets—if they are to benefit from trade. This includes challenges facing women, the rural poor, those in the informal economy, and those in fragile and conflict-affected states. Thus, in order to have the greatest impact toward ending poverty, trade policy must be made and implemented in conjunction with other areas of policy. This entails deeper cooperation across sectoral lines, government agencies, and a wider range of stakeholders.
3. The World Trade Organization and World Bank Group have made substantial contributions to trade and poverty reduction. However, a great deal more remains to be done to end poverty, and both institutions and other partners need to continually review their activities to support poverty reduction to ensure they remain relevant in an ever-changing world.

Trade can drive poverty reduction by boosting growth. Although the drivers of poverty are multi-dimensional, the basic requirement for sustained poverty reduction is economic growth. Opening up to trade increases a country's GDP because it allows each country to use its resources

The World Bank; World Trade Organization. "The Role of Trade in Ending Poverty," *World Trade Organization*, 2015. Copyright ©2015 by World Trade Organization. Used with permission. http://hdl.handle.net/10986/22081

more efficiently by specializing in the production of the goods and services that it can produce more cheaply, while importing the others. Trade also affects long-term growth since it gives access to more advanced technological inputs available in the global market and because it enhances the incentives to innovate.

Trade contributes directly to poverty reduction by opening up new employment opportunities, for example for agricultural producers, with the expansion of export sectors, and by bringing about structural changes in the economy that increase employment of low-skilled, poor workers in the informal sector. Trade also provides better access to external markets for the goods that the poor produce. Understanding these channels helps us trace through the impact that trade can have on the extreme poor.

The increasingly integrated global economy has been a critical factor behind the poverty reduction achieved so far. And integration will be just as—if not more—important on the path to 2030. A key message of this report is the need to sustain efforts to keep global trade open and to do more to lower trade costs, by further integrating markets. Reducing trade costs in countries where the poor live may not just oil the engine of economic growth but also can increase the competitiveness of the goods and services traded by the poor and lower the costs of key inputs in production, such as fertilizers for poor farmers. The inverse relationship between trade costs and income—the poorer the countries are, the higher the trade costs they face—underlines the need to do more on this front. Lowering trade costs is particularly important for countries seeking to take advantage of the fragmentation of production through global value chains, which offer new opportunities to generate growth and income gains through trade.

Yet growth alone may not be enough to achieve the end of poverty by 2030. Based on recent World Bank projections of likely global growth to 2030, growth is unlikely to be high enough across all developing countries to reduce poverty to the level sought by 2030. Developing countries would have to grow at an average of 4 percent each year—even higher than the growth rate of the 2000s and much higher than that of the 1980s and 1990s. Even with sustained growth, as poverty continues to decline globally, there is evidence to suggest that it will become even harder for overall growth to be translated into income gains for the poor. Extreme poverty is becoming concentrated in countries and regions where poverty reduction seems to be less responsive to overall growth.

The extreme poor face numerous constraints that limit their capacity to benefit from wider economic gains. In this context, trade integration is important not only because of the boost to growth it can provide but also because there is room for it be executed in ways that more effectively overcome the constraints faced by the extreme poor. A novel feature of this report is the link drawn between these challenges facing people living in extreme poverty and their capacity to benefit from trade, as a key driver of growth. The report describes four leading characteristics of the poor that have a particularly strong impact on their capacity to extract the full potential benefits of trade: rural poverty, fragility and conflict, informality, and gender.

Each of these four characteristics shapes the environment in which the extreme poor live and constrains them from benefiting from trade opportunities. Poverty in many parts of the world—especially in Sub-Saharan Africa, where the challenge of ending extreme poverty is greatest—is a strikingly rural phenomenon. For the rural poor, trade and internal market barriers in agriculture present real challenges to benefiting from trade opportunities. More than half of the extreme poor live in fragile and conflict-affected areas (often dominated by revenues from high-value minerals and other natural resources) and are less likely to be able to benefit from trade opportunities, even though export diversification by providing alternative livelihoods can be an essential pathway out of conflict. Poverty and informality often go hand in hand. Informal sector workers and the micro-enterprises that dominate the informal economy face particular challenges, and are vulnerable to sudden economic shocks. Finally, women are often at the forefront of poverty reduction, and trade has brought particular benefits for women in terms of jobs and empowerment. However, women face specific constraints, both within and outside the household, which can make it difficult to participate in and gain from trade opportunities.

The risks faced by the poor also affect their capacity to benefit from trade opportunities. Major risks faced by the poor across each of the four dimensions of poverty include economic shifts, labor market adjustments, and vulnerability to weather events and to climate change. At the same time, the poor often lack access to the instruments and support necessary to mitigate these risks—things people in advanced countries take for granted, such as insurance and social security. When poor people face risks, they may be unable to adopt strategies to make the most of trade opportunities, even where these strategies

would be beneficial. For example, the risks faced by subsistence farmers are at least partly responsible for their inability to invest in higher quality inputs like seeds and fertilizers, which could help them take full advantage of trade opportunities. Similarly, a lack of access to finance often limits the capacity of informal microenterprises to invest in ways that would allow them to offset risks. Understanding and addressing these risks is important to ensure that trade delivers maximum benefits to the poor.

While the challenges and risks facing the extreme poor are considerable, the opportunities are great. Cross-border trade enhances the income of agricultural producers and traders in poor countries. Trade has contributed to women moving out of agriculture into manufacturing and especially services, and this has brought with it higher incomes and more formal employment. Trade can also help to devise pathways out of conflict. Pursuing strategies for economic integration in ways that address the challenges faced by the extreme poor can help maximize the gains from trade.

The greatest impact on poverty reduction will come through a coherent approach that lowers trade costs in ways that maximizes the gains for the extreme poor. Policies that focus on lowering tariffs and non-tariff barriers between countries are essential elements, but they must form part of a wider approach. Only a holistic approach, which also incorporates a variety of specific localized measures, can begin to deliver the gains required to end global poverty. Although countries are the basic "building blocks" of international trade policy, the challenges faced by the poor vary greatly within national borders, and across borders. For this reason, approaches that focus on lowering trade costs between countries will need to be complemented by efforts to tackle challenges faced by the poor within and across national borders.

This underlines the importance of the various programs that the World Trade Organization and World Bank Group have in place to address these challenges and of further efforts in this regard. This report offers five interrelated and complementary areas of policy that can be considered by countries and the international community in implementing this approach:

- Lowering trade costs for deeper integration of markets. Trade facilitation—including implementation of the WTO Trade Facilitation Agreement—as well as tackling other policy and infrastructure barriers to goods and services trade are critical to growth and poverty reduction.
- Improving the enabling environment. Trade openness itself and lowering trade costs is essential for delivering gains for the poor. A range of complementary policies helps maximize the gains of openness for the poor—including policies related to human and physical capital, access to finance, governance, and institutions, and macroeconomic stability. Strengthening the enabling environment can be done through innovative policy frameworks that improve consultation with the poor, and target their needs more carefully. To achieve this will require deeper cooperation across sectors, better coordination across government ministries and agencies and that a wider range of stakeholders work effectively together.
- Intensifying the poverty impact of integration policies. Bringing a greater focus on tackling remoteness from markets at the sub-national level, and facilitating the activities of poor and small traders, can help improve gains for the poor, especially in rural areas. This also entails reforms to tackle costs generated by a lack of competition, and other sources of domestic costs. Promoting greater inclusiveness of women, and targeting the challenges they face as distinct from men, is central to efforts to intensify the poverty impact of integration policies.
- Managing and mitigating risks faced by the poor. More focus is needed on managing the existing risks that poor people face that limit them from benefiting from trade opportunities when they arise. Effective risk management can be a powerful instrument for development, through building poor people's resilience to the effects of adverse events and also by allowing them to take advantage of opportunities for improvement. Addressing any potential risks to livelihoods for the poor through trade-related adjustments is also important.
- Improving data and analysis to inform policy. The gaps in understanding of poverty, the nature of the informal economy, the participation of women in trade, and of the trade-related constraints in general that many countries face continue to be large. Better data is required for the design and implementation of effective policies to maximize the poverty reduction gains from trade.

The World Trade Organization plays a critical role in underpinning an open and inclusive global trading system. The key goals of pursuing further openness at the multilateral level, complementing unilateral opening and regional cooperation, and helping developing and least developed

countries to integrate into the trading system remain as relevant today as ever. The rules-based global trading system has been essential in reducing the risks faced by the poor from opaque and unpredictable trade policies—both in terms of access to markets for the products they produce and by creating a stable trading environment to support job-creating investment, both domestic and foreign, in trade-related activities. Updating the World Trade Organization's rules, market access commitments and flexibilities through a successful conclusion of the current round of Doha negotiations will expand the opportunities for developing countries to benefit from inclusion in the global trading system and foster development.

The World Trade Organization also plays a key role in supporting trade facilitation. The need to support countries in making the most of trade opportunities is recognized in the Trade Facilitation Agreement, which states that assistance and support must be granted to help developing countries achieve the capacity necessary to implement its provisions. Various efforts are now underway, including by the World Bank Group, to ensure that this commitment is delivered. Ratification and implementation of the Trade Facilitation Agreement has the potential to deliver significant reductions in trade costs, especially in the poorest countries.

Recognizing the particular constraints faced by the poor, including small-scale traders, and focusing on connecting the extreme poor to markets would maximize the impact of the Agreement on poverty reduction.

The Aid for Trade Initiative, convened by the World Trade Organization, has helped mobilize significant additional resources for trade-related assistance, and could more closely monitor the impacts of trade integration on poverty reduction. As the leading multilateral donor of Aid for Trade, the World Bank Group has a key role to play through its financing capacity, widespread country presence, capacity to undertake and widely disseminate relevant research, knowledge, and analytical expertise, and multi-sectoral capacity and reach. The Bank Group is increasingly focusing on fragile and conflict states, and the importance of agricultural development in raising incomes in rural areas. Improving the tools to monitor the impact of Aid for Trade and integrating effective trade indicators into broader monitoring systems of poverty reduction and progress in fragile states is an important area of on-going and future work for the Bank Group.

THE WORLD BANK GROUP AND WORLD TRADE ORGANIZATION STAFF The World Bank Group strives to end extreme poverty within a generation and boost shared prosperity. The World Trade Organization deals with the global rules of trade between nations. It's main function is to ensure that trade flows as smoothly, predictably and freely as possible.



Ian Fletcher

NO

Free Trade Isn't Helping World Poverty

The propaganda for free trade tells us that not only is it the master key to our own prosperity, but also the master key to lifting the world's poor out of poverty. So if we don't support free trade, we're in for a guilt trip like the one that used to make us stick quarters into UNICEF boxes. Unfortunately, free trade just doesn't work as a global anti-poverty strategy. The spreading Third World affluence one sees in TV commercials only means that the thin upper crust of Western-style consumers is now more widespread than ever before. But having more affluent people in the Third World is not the same as the Third World as a whole nearing the living standards of the First.

This is actually not a terribly big secret, and is fairly well known to the people who promote free trade. For a start, the World Bank standard for poverty is $2 a day, so "moving people out of poverty" can merely consist in moving people from $1.99 a day to $2.01 a day. In one major study, there were only two nations in which the average beneficiary jumped from less than $1.88 to more than $2.13: Pakistan and Thailand. Every other nation was making minor jumps in between.

The developing world's gains from trade liberalization (insofar as there are any) are concentrated in a relatively small group of nations, due to the fact that only a few developing nations have economies that are actually capable of taking advantage of freer trade to any meaningful extent.

Although it depends a bit on the model, China, India, Brazil, Mexico, Argentina, Vietnam, and Turkey generally take the lion's share. This list sounds impressive, but it actually leaves out most Third World nations. Dirt-poor nations like Haiti aren't even on the radar. Even nations one notch up the scale, like Bolivia, barely figure.

So forget helping starving children in Africa this way. They're not even in the game of international trade—let alone winners of it.

Like it or not, this is perfectly logical, as increased access to the ruthlessly competitive global marketplace (which is all free trade provides) benefits only nations whose industries have something to sell which foreign trade barriers are currently keeping out. Their industries must both be strong enough to be globally competitive and have pent-up potential due to trade barriers abroad, a fairly rare combination.

As a result, the most desperately impoverished nations, which have few or no internationally competitive industries, have basically nothing to gain from freer trade.

What progress against poverty has occurred in the world in recent decades has not been due to free trade, but due to the embrace of mercantilism and industrial policy by some poor nations. (This is, of course, the same way nations like the United States and England became prosperous hundreds of years ago.) According to the World Bank, the entire net global decline in the number of people living in poverty since 1981 has been in mercantilist China, where free trade is spurned. ["2008 World Development Indicators: Poverty Data Supplement," The World Bank, 2008, p. 10.] Elsewhere, their numbers have grown.

The story on global economic progress for poor nations in the last 30 years is roughly as follows:

1. China (1/5 of humanity) braked its population growth, made a quantum leap from agrarian Marxism to industrial mercantilism, and thrived—largely because the United States was so open to being the "designated driver" of its export-centered growth strategy during this period.
2. India (another fifth) sharply increased the capitalist share of its mixture of capitalism and Gandhian-Fabian socialism after 1991. It did reasonably well, but not as well as China and not well enough to reduce the absolute number of its people living in poverty, given unbraked population growth.
3. Latin America lost its way after the oil shocks of the 1970s, experienced the 1980s as an economic "lost decade," and tried to implement the free market Washington Consensus in the 1990s. It didn't get the promised results,

Fletcher, Ian. "Free Trade Isn't Helping World Poverty," *Huffington Post*, May 2011. Copyright ©2011 by Ian Fletcher. Used with permission.

so some nations responded with a pragmatic retreat from free market purism, others with a lurch to the left, the former showing results in the last five years or so.

4. The collapse of Communism left some nations (Cuba, North Korea) marooned in Marxist poverty, while others (Uzbekistan, Mongolia) discovered that the only thing worse than an intact communist economy is the wreckage of one. Much of Eastern Europe and the ex-USSR got burned by an overly abrupt transition to capitalism, then recovered at various speeds.
5. Sub-Saharan Africa spent much of this period in political chaos, with predictable economic results (except for South Africa and Botswana). Washington Consensus policies in the 1990s did not deliver, and the few recent bright spots have yet to deliver increased per capita income or lower unemployment.
6. Other poor countries followed patterns one through five to varying degrees, with corresponding outcomes.

China is unquestionably the star here. But all its brutally efficient achievements in forcing up the living standards of its people from an extremely low base, it still has serious problems. Its growth miracle has been largely confined to the metropolitan areas of the country's coastal provinces. Of the 800 million peasants left behind in agriculture, perhaps 400 million have seen their incomes stagnate or even decline.

Over the last 30 years of greatly expanding free trade, most of the world's poor nations have actually seen the gap between themselves and the rest of the world increase. As economist Dani Rodrik of Harvard summarizes the data:

The income gap between these regions of the developing world and the industrial countries has been steadily rising. In 1980, 32 Sub-Saharan countries had an income per capita at purchasing power parity equal to 9.3 percent of the U.S. level, while 25 Latin American and Caribbean countries had an income equal to 26.3 percent of the U.S. average. By 2004, the numbers had dropped to 6.1 percent and 16.5 percent, respectively, for these two regions. This represents a drop of over 35 percent in relative per capita income.

Today, because a few formerly poor nations are succeeding economically while most have been hit with economic decline, the world is splitting into a "twin peaks" income distribution, with a hollowing out of middle-income countries.

A significant number of nations have gone backward, and are now poorer than they were a generation ago. Most poor nations have high fertility, so population growth drags down their per capita income by a percentage point or two every year if economic growth does not outpace it.

Contrary to impressions in the media, economic success is actually becoming more concentrated in the Western world, not less. According to one summary of the data by Syed Murshed of Erasmus University in Holland:

Between 1960 and 2000 the Western share of rich countries has been increasing; to be affluent has almost become an exclusive Western prerogative—16 of the 19 non-Western nations who were rich in 1960 traversed into less affluent categories by 2000 (for example, Algeria, Angola, and Argentina). Against that, four Asian non-rich countries moved into the first group.

Most non-Western rich nations in 1960 joined the second income group by 2000, and most non-Western upper-middle-income countries in 1960 had fallen into the second and third categories by 2000. Of 22 upper-middle-income nations in 1960, 20 had declined into the third and fourth income categories, among them the Democratic Republic of the Congo, also known recently as Zaire, and Ghana. Most nations in the third group in 1960 descended into the lowest income category by 2000. Only Botswana moved to the third group from the fourth category, while Egypt remains in the third category.

We seem to inhabit a downwardly mobile world with a vanishing middle class; by 2000, most countries were either rich or poor, in contrast to 1960 when most nations were in the middle-income groups (emphasis added).

This is no accident. Free trade tends to mean that the industrial sectors of developing nations either "make it to the big time" and become globally competitive, or else they get killed off entirely by imports, leaving nothing but agriculture and raw materials extraction, dead-end sectors which tend not to grow very fast.

Free trade eliminates the protected middle ground for economies, like Mongolia or Peru, which don't have globally competitive industrial sectors but were still better off having such sectors, albeit inefficient ones, than not having them at all. The productivity of modern industry is so much higher than peasant agriculture that it raises average income even if it is not globally competitive.

Nations which open up their economies to (somewhat) free trade relatively late in their development, and continue to support domestic firms with industrial policy, are far more likely to retain medium and high technology industry, the key to their futures, than nations which embrace full-blown free trade and a laissez faire absence of industrial policy too early in their development.

There are numerous documented cases in which trade liberalization simply killed off indigenous industries without supplying anything to replace them. To take

some typical examples given by the International Forum on Globalization:

Senegal experienced large job losses following liberalization in the late 1980s; by the early 1990s, employment cuts had eliminated 1/3 of all manufacturing jobs. The chemical, textile, shoe, and automobile assembly industries virtually collapsed in the Ivory Coast after tariffs were abruptly lowered by 40 percent in 1986. Similar problems have plagued liberalization attempts in Nigeria. In Sierra Leone, Zambia, Zaire, Uganda, Tanzania, and the Sudan, liberalization in the 1980s brought a tremendous surge in consumer imports and sharp cutbacks in foreign exchange available for purchases of intermediate inputs and capital goods, with devastating effects on industrial output and employment. In Ghana, liberalization caused industrial sector employment to plunge from 78,700 in 1987 to 28,000 in 1993.

One unhappy corollary of this is the so-called Vanek–Reinert effect, in which the most advanced sectors of a primitive economy are the ones destroyed by a sudden transition to free trade. Once these sectors are gone, a nation can be locked in poverty indefinitely.

Ian Fletcher sits on the advisory board of the Coalition for a Prosperous America and is a former senior economist for the organization.



EXPLORING THE ISSUE

Is Free Trade Helping to End World Poverty?

Critical Thinking and Reflection

1. Do you believe extreme poverty is actually diminishing or is it mostly due to tiny increases in income that places them just above the extreme poverty threshold?
2. Does it matter that income inequality among and within states might be increasing at the same time extreme poverty is decreasing?
3. Do you think the Bretton Woods institutions are exploiting the weak by imposing a neoliberal program on states that seek their help?
4. Should the United States adopt protectionist policies to manage the trade deficit with China even if that increases poverty rates in China?

Is There Common Ground?

As was evident in the 2016 U.S. presidential election, there is at least common ground between the Economic Nationalist and Neo-Marxist approaches to the issue of free trade and poverty. A majority of the electorate appeared to support either Bernie Sanders or the eventual winner, Donald Trump, because they both rejected the "Washington elite" consensus concerning free trade. Whilst Sanders focused primarily on the extreme economic inequality that has developed in the United States over the past decades, Trump focused his ire on countries like China, which he blamed for stealing the jobs of the "forgotten man and woman" of America. Both called for protectionist policies to "bring jobs back to America," but differed on the domestic economic policies they would adopt.

The popularity of both of these candidates is significant because they were campaigning in the world's richest country. Globalization is on the defensive in the world's largest economy! It is under stress in Europe too, where the United Kingdom voted to leave the European Union in 2016. The future of globalization may depend, at least in the near future, on whether the case for free trade can be made forcefully enough to overcome the tendency of discontented electorates to look for easy answers in populist politicians. The debate in this issue will help you decide whether it is worth trying.

Additional Resources

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Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Should the Export-Import Bank Be Eliminated?

YES: Veronique De Rugy, from "Examining Reauthorization of the Export-Import Bank: Corporate Necessity or Corporate Welfare?" *U.S. House of Representatives* (2014)

NO: Fred P. Hochberg, from "Examining Reauthorization of the Export-Import Bank: Corporate Necessity or Corporate Welfare?" *U.S. House of Representatives* (2014)

Learning Outcomes

After reading this issue, you will be able to:

- Explain why trade is important to the United States.
- Understand how trade deficits impact the overall balance of payments and, thereby, help determine a country's financial health.
- Discuss the role of the Export-Import Bank in fostering U.S. exports.
- Comment on whether or not the bank is doing a reasonable job in fulfilling its mission.

ISSUE SUMMARY

YES: Veronique De Rugy, a senior research fellow at the Mercatus Center at George Mason University, concludes that a close examination of the Export-Import Bank's activities and outcomes shows that it does not meet the standards of its own criteria, and the facts do not support these criteria for the continued activities of the Bank.

NO: Fred P. Hochberg, chairman and president of the Export-Import Bank of the United States, proclaims that he is proud of the work the bank's more than 400 employees do to empower U.S. companies and support American job growth, says the reforms are addressing some of the criticisms of the bank, and argues that the bank deserves to have its charter renewed for five years.

Foreign trade is ancient. Trading records extend back to almost 3000 B.C., and even before that archaeologists have uncovered evidence of trade in the New Stone Age, or Neolithic period (9000–8000 B.C.). Exports bring revenue into a country that stimulates its economy. Exports create and maintain jobs. Currently about 11 million American workers hold export-related jobs and make up nearly 7 percent of the U.S. workforce. Imports are also important for oil and other vital resources, for things we want, and to buy things inexpensively. For example, the cost of living for Americans would be considerably higher if inexpensive clothing, electronic goods, and many other items were not available through imports.

While foreign trade has always been important, it has increased in volume and become an even more significant factor in national prosperity and power in recent centuries, especially since World War II. World trade measured in exports totaled $70 billion in 1950. Since then, trade has grown rapidly, and in 2012, world trade stood at $22.6 trillion, some 32,300 percent more than in 1950. This $22.6 trillion included $18.3 trillion in "merchandise

(or goods) trade," which involves tangible items ranging from agricultural products, to minerals such as petroleum, and manufactured products such as autos. "Services trade" accounted for another $4.3 trillion in 2012. Services include things that you do for others. When U.S. insurance companies earn premiums for insuring foreign assets or people, the revenue they generate constitutes the export of services. Among the world countries, the United States ($2.3 trillion) and China ($2.2 trillion) lead in the export of goods and services. China has a substantial lead in the export of merchandise over the United States, but the U.S. lead in services exports evened the overall figure.

Where the United States and China diverge is in imports. U.S. imports came to $2.7 trillion. This meant a U.S. trade deficit of about $500 billion in 2012. By contrast, China's imports were only $2.1 trillion, giving it a $100 billion trade surplus. One major cause of the U.S. trade deficit is the cost of petroleum, natural gas, and other energy imports. At over $400 billion in 2012, they equaled about 80 percent of the deficit. Another problem is the U.S. trade balance with China. U.S. imports of goods and services from China were almost four times the reciprocal importation of U.S. goods and service by China. This left the United States with a trade deficit of over $300 billion with China.

These numbers are important because these are a key factor in the U.S. "balance of payments," the total net flow of money in and out of a country for trade, investments, foreign aid, and other expenditures and revenue. Much like individuals or businesses, countries are financially advantaged if they have a positive balance of payments and disadvantaged by a negative (deficit) balance. Deficits are especially worrisome if they are chronic, as they are for the United States. The U.S. balance of payments deficit in 2012 was $115 billion. That is far better than the $201 billion deficit in 2006, but it remains a persistent deficit. Indeed, there has only been one year since 1982 that the U.S. balance of payments has not had an annual deficit. The major cause is the trade balance, which has been in chronic deficit since 1973.

The bottom line for this largely negative financial news with regard to the debate over the U.S. Export-Import Bank is that it is clearly in the U.S. national interest to do whatever it reasonably can to increase exports and decrease imports in the United States to reduce or eliminate the trade deficit as part of the effort to break even or even achieve a surplus in the balance of payments. On the import side, a major advance has been the decrease in the annual oil imports from a record high of 3.6 billion barrels in 2006 to 2.8 million barrels in 2013. At a recent price of $95 per barrel, that saves about $76 billion annually in imports. There are many efforts to also increase U.S. exports. The Export-Import Bank is part of the campaign. Veronique De Rugy in the YES selection of this issue gives a good review of the bank that need not be duplicated here. As a brief preview, though, the Export-Import Bank was created during the Great Depression years in 1934. Its role is to promote U.S. exports, and therefore American jobs, by financing or insuring foreign purchases of U.S. good where the potential foreign purchaser cannot secure the necessary financing through normal banking channels. The bank is a chartered corporation under U.S. law, and the hearings from which the selections herein are drawn were part of the process in 2014 by which Congress was considering whether to renew the bank's charter for another three years. As you will see in De Rugy's remarks, the bank has been criticized for favoring big over medium and small businesses, for poor accounting and other administrative processes, and for supporting some businesses, such as those involved in fossil fuel production, that seem at odds with the Obama administration's policy of curbing global warming (see Issue 15). Another charge is that guaranteeing loans given to foreign companies, even if it is to buy U.S. product, helps strengthen those foreign companies, many of which compete with U.S. companies. In the NO selection, Fred Hochberg, the bank's head since 2009, tells Congress that the bank is doing a needed job well, and also adds that it is making changes to meet some of the criticisms that have been voiced.



YES

Veronique De Rugy

Examining Reauthorization of the Export-Import Bank: Corporate Necessity or Corporate Welfare?

Introduction

In gathering to discuss the past and uncertain future of the US Export-Import Bank, we have a rare opportunity to reconsider the assumptions, mission, and activities of the federal government's official export credit corporation ahead of the reauthorization vote. In order to make the best decision, however, policymakers must know all the facts.

Before delving into the weeds of export credit finance, there are two fundamental realities to keep in mind.

First, export promotion programs, like Ex-Im finance, are not critical to US exports. Second, the Bank's mission is inherently contradictory.

First, Ex-Im yields a minuscule influence on US exports. At most, Ex-Im can claim to influence roughly 2 percent of both the value of total US exports and the total number of export-related jobs. Since the Bank's methodologies have been criticized by the General Accounting Office [GAO] and its own inspector general, the Bank's true influence is likely smaller.

Second, Ex-Im's mission refutes itself. The Bank's charter instructs administrators to extend assistance to projects that cannot find financing in private markets; these projects must also provide a reasonable chance of repayment. If a project cannot find private finance, it is probably too risky to repay the borrowed funds. But if a project has a good chance of repayment, it should easily find private finance. Any single project the Bank finances cannot meet both conditions of its charter.

This tension results in a bifurcation of the Bank's portfolio: profit-generating projects, like those involving Boeing, make up for losses in other areas. Ex-Im supporters likewise can either argue that (1) the Bank makes strong profits for the [U.S.] Treasury, or (2) the Bank provides needed but risky finance to important export opportunities. But if the Bank is making profits, that is an argument for privatization. If the Bank is suffering losses, that is an argument for shutting it down. Neither scenario supports federal government involvement.

With these heavy caveats in place, I will now contribute to this conversation by providing contextual information about the Bank's history, processes, and portfolio. I will then consider the claims made by both Ex-Im supporters and critics. Specifically, I will examine the validity of arguments that the Export-Import Bank

1. plays a critical role in promoting US exports;
2. maintains or creates US jobs;
3. substantially benefits small business;
4. levels the playing field for US companies that compete against foreign companies that receive benefits from their countries' export credit agencies; and
5. is a good deal for taxpayers.

I conclude that a close examination of its activities and outcomes shows that the Export-Import Bank does not meet the standards of its own criteria, and the facts do not support these popular arguments for the continued activities of the Bank.

EX–IM Bank Basics

The Export-Import Bank has evolved since it was created in 1934 by President Franklin Delano Roosevelt. While its original purpose was to provide immediate trade financing with the Soviet Union, the Bank's focus shifted throughout the years, gradually changing from post-WWII reconstruction tool, to development bank for impoverished nations, to foreign policy tool, and eventually to export-promotion corporation. Ex-Im's mission today is to "aid in financing and to facilitate exports of goods and services, imports, and the exchange of commodities and services" between the United States and foreign countries and "in so doing, to contribute to the employment of United States workers" as described in the current charter that was last amended in 2012.

De Rugy; Veronique. "Examining Reauthorization of the Export-Import Bank: Corporate Necessity or Corporate Welfare?" from Testimony During Hearings Before the Committee on Financial Services, U.S. House of Representatives, June 25, 2014.

This 116-page document contains guidelines and proscriptions for the many pet programs that have developed in its 80-year history, including instructions regarding small business lending, green energy projects, engagement with sub-Saharan Africa, and prohibitions against aiding "Marxist-Leninist countries" or financing "defense articles."

The main tools provided to the Bank to achieve these ends are (1) loan guarantees, (2) working capital guarantees, (3) direct loans, and (4) export credit insurance.

Through loan guarantees, which presently constitute the largest portion of Ex-Im financing, the Ex-Im Bank assumes the majority of the repayment risk of the foreign buyer's debt obligations. The Working Capital Guarantee program guarantees short-term working capital loans made to qualified US exporters, through which the Ex-Im Bank assumes almost all the risk to lenders, which are usually commercial banks. The Ex-Im Bank's direct loan program provides loans directly to foreign buyers of US exports; if the foreign borrower defaults, the Ex-Im Bank will be responsible for the total value of the outstanding principal and interest on the loan. Finally, the Ex-Im Bank's export credit insurance program issues insurance policies to US exporters, often small businesses, which provide credit to the exporter's foreign buyer.

The Export-Import Bank's gradually expanding mission and authority produced a large but little-known federal corporation whose activities far exceed its original purpose.

Total Ex-Im authorizations, or the total amount of funding that the Bank commits to finance a higher total value of exports, increased from $12.37 billion in FY 2007 to $35.73 billion in FY 2012 before dropping a bit to $27.2 billion in FY 2013. [FY means fiscal year, the budget year. The U.S. FY 2014 extends from October 1, 2013, to September 31, 2014.] The Bank claims that this $27 billion in authorizations supported $37.4 billion worth of US exports worldwide during the same year. These amounts, however, significantly understate the financial risk that the Bank, and therefore taxpayers, are exposed to.

The total amount of exposure—defined by the Bank as "authorized outstanding and undisbursed principal balance of loans, guarantees, and insurance" plus "unrecovered balances of payments made on claims . . . under the export guarantee and insurance programs"—has grown consistently over time. Total Ex-Im Bank exposure grew from $57.42 billion in 2007 to $113.83 billion in 2013—without ever dropping, even when the corresponding level of authorizations dropped.

What benefits do US taxpayers receive from the Export-Import Bank's many activities? Do they outweigh their costs? I now turn to the five most popular claims made by supporters of the Ex-Im Bank.

Claim 1: The Export-Import Bank promotes exports

This claim has two branches: that the Ex-Im Bank improves the trade balance by filling an important "financing gap" in supporting US exports, and that it supports a significant share of exports. Neither has merit.

Some high-value projects go unfunded, the argument runs, because unusual or untenable investment risks scare off private financiers. The federal government should step in and fund the projects that the private market rejects. Without this federally provided export finance, US exports would be significantly dampened.

The assumptions behind this argument are inherently flawed because private investors are not likely to leave value on the table. It is proper that high-risk projects should not always find financing. Prohibitively high risk rates serve as a signal that investment funds could be more effectively spent elsewhere. Instead of making the difficult case that the Bank should subsidize losing projects, Ex-Im supporters prefer to use euphemistic language about "financing gaps" and "leveling the playing field." Nothing changes the fact, however, that these projects failed to attract private capital because their profit opportunities did not warrant investment.

Second, the data do not bear out the claims that the Export-Import Bank supports a substantial portion of US exports. Export data from the Census and the Export-Import Bank from 2000 to 2010 show that Ex-Im-backed activity accounts for approximately 2 percent of all US exports during that time. There are no grounds to claim that Ex-Im activity is critical to US exports.

It is has long been known that export credit corporations cannot substantially influence broader national trade outcomes. The GAO stated back in 1992 that "export promotion programs cannot produce a substantial change in the US trade balance, because a country's trade balance is largely determined by the underlying competitiveness of US industry and by the macroeconomic policies of the United States and its trading partners." [Therefore,] reforming the broader macroeconomic policies that are more likely to harm our trade position will help our exports far more than anything the Ex-Im Bank could do. The United States maintains the highest national statutory corporate tax rates among all [industrialized countries]. Reforming our punishing corporate tax rate would be one easy and feasible policy change that would pack a powerful punch without distorting markets and exposing taxpayers to risk, as the Export-Import Bank does.

YES

Veronique De Rugy

Examining Reauthorization of the Export-Import Bank: Corporate Necessity or Corporate Welfare?

Introduction

In gathering to discuss the past and uncertain future of the US Export-Import Bank, we have a rare opportunity to reconsider the assumptions, mission, and activities of the federal government's official export credit corporation ahead of the reauthorization vote. In order to make the best decision, however, policymakers must know all the facts.

Before delving into the weeds of export credit finance, there are two fundamental realities to keep in mind.

First, export promotion programs, like Ex-Im finance, are not critical to US exports. Second, the Bank's mission is inherently contradictory.

First, Ex-Im yields a minuscule influence on US exports. At most, Ex-Im can claim to influence roughly 2 percent of both the value of total US exports and the total number of export-related jobs. Since the Bank's methodologies have been criticized by the General Accounting Office [GAO] and its own inspector general, the Bank's true influence is likely smaller.

Second, Ex-Im's mission refutes itself. The Bank's charter instructs administrators to extend assistance to projects that cannot find financing in private markets; these projects must also provide a reasonable chance of repayment. If a project cannot find private finance, it is probably too risky to repay the borrowed funds. But if a project has a good chance of repayment, it should easily find private finance. Any single project the Bank finances cannot meet both conditions of its charter.

This tension results in a bifurcation of the Bank's portfolio: profit-generating projects, like those involving Boeing, make up for losses in other areas. Ex-Im supporters likewise can either argue that (1) the Bank makes strong profits for the [U.S.] Treasury, or (2) the Bank provides needed but risky finance to important export opportunities. But if the Bank is making profits, that is an argument for privatization. If the Bank is suffering losses, that is an argument for shutting it down. Neither scenario supports federal government involvement.

With these heavy caveats in place, I will now contribute to this conversation by providing contextual information about the Bank's history, processes, and portfolio. I will then consider the claims made by both Ex-Im supporters and critics. Specifically, I will examine the validity of arguments that the Export-Import Bank

1. plays a critical role in promoting US exports;
2. maintains or creates US jobs;
3. substantially benefits small business;
4. levels the playing field for US companies that compete against foreign companies that receive benefits from their countries' export credit agencies; and
5. is a good deal for taxpayers.

I conclude that a close examination of its activities and outcomes shows that the Export-Import Bank does not meet the standards of its own criteria, and the facts do not support these popular arguments for the continued activities of the Bank.

EX–IM Bank Basics

The Export-Import Bank has evolved since it was created in 1934 by President Franklin Delano Roosevelt. While its original purpose was to provide immediate trade financing with the Soviet Union, the Bank's focus shifted throughout the years, gradually changing from post-WWII reconstruction tool, to development bank for impoverished nations, to foreign policy tool, and eventually to export-promotion corporation. Ex-Im's mission today is to "aid in financing and to facilitate exports of goods and services, imports, and the exchange of commodities and services" between the United States and foreign countries and "in so doing, to contribute to the employment of United States workers" as described in the current charter that was last amended in 2012.

De Rugy; Veronique. "Examining Reauthorization of the Export-Import Bank: Corporate Necessity or Corporate Welfare?" from Testimony During Hearings Before the Committee on Financial Services, U.S. House of Representatives, June 25, 2014.

This 116-page document contains guidelines and proscriptions for the many pet programs that have developed in its 80-year history, including instructions regarding small business lending, green energy projects, engagement with sub-Saharan Africa, and prohibitions against aiding "Marxist-Leninist countries" or financing "defense articles."

The main tools provided to the Bank to achieve these ends are (1) loan guarantees, (2) working capital guarantees, (3) direct loans, and (4) export credit insurance.

Through loan guarantees, which presently constitute the largest portion of Ex-Im financing, the Ex-Im Bank assumes the majority of the repayment risk of the foreign buyer's debt obligations. The Working Capital Guarantee program guarantees short-term working capital loans made to qualified US exporters, through which the Ex-Im Bank assumes almost all the risk to lenders, which are usually commercial banks. The Ex-Im Bank's direct loan program provides loans directly to foreign buyers of US exports; if the foreign borrower defaults, the Ex-Im Bank will be responsible for the total value of the outstanding principal and interest on the loan. Finally, the Ex-Im Bank's export credit insurance program issues insurance policies to US exporters, often small businesses, which provide credit to the exporter's foreign buyer.

The Export-Import Bank's gradually expanding mission and authority produced a large but little-known federal corporation whose activities far exceed its original purpose.

Total Ex-Im authorizations, or the total amount of funding that the Bank commits to finance a higher total value of exports, increased from $12.37 billion in FY 2007 to $35.73 billion in FY 2012 before dropping a bit to $27.2 billion in FY 2013. [FY means fiscal year, the budget year. The U.S. FY 2014 extends from October 1, 2013, to September 31, 2014.] The Bank claims that this $27 billion in authorizations supported $37.4 billion worth of US exports worldwide during the same year. These amounts, however, significantly understate the financial risk that the Bank, and therefore taxpayers, are exposed to.

The total amount of exposure—defined by the Bank as "authorized outstanding and undisbursed principal balance of loans, guarantees, and insurance" plus "unrecovered balances of payments made on claims . . . under the export guarantee and insurance programs"—has grown consistently over time. Total Ex-Im Bank exposure grew from $57.42 billion in 2007 to $113.83 billion in 2013—without ever dropping, even when the corresponding level of authorizations dropped.

What benefits do US taxpayers receive from the Export-Import Bank's many activities? Do they outweigh their costs? I now turn to the five most popular claims made by supporters of the Ex-Im Bank.

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The assumptions behind this argument are inherently flawed because private investors are not likely to leave value on the table. It is proper that high-risk projects should not always find financing. Prohibitively high risk rates serve as a signal that investment funds could be more effectively spent elsewhere. Instead of making the difficult case that the Bank should subsidize losing projects, Ex-Im supporters prefer to use euphemistic language about "financing gaps" and "leveling the playing field." Nothing changes the fact, however, that these projects failed to attract private capital because their profit opportunities did not warrant investment.

Second, the data do not bear out the claims that the Export-Import Bank supports a substantial portion of US exports. Export data from the Census and the Export-Import Bank from 2000 to 2010 show that Ex-Im-backed activity accounts for approximately 2 percent of all US exports during that time. There are no grounds to claim that Ex-Im activity is critical to US exports.

It is has long been known that export credit corporations cannot substantially influence broader national trade outcomes. The GAO stated back in 1992 that "export promotion programs cannot produce a substantial change in the US trade balance, because a country's trade balance is largely determined by the underlying competitiveness of US industry and by the macroeconomic policies of the United States and its trading partners." [Therefore,] reforming the broader macroeconomic policies that are more likely to harm our trade position will help our exports far more than anything the Ex-Im Bank could do. The United States maintains the highest national statutory corporate tax rates among all [industrialized countries]. Reforming our punishing corporate tax rate would be one easy and feasible policy change that would pack a powerful punch without distorting markets and exposing taxpayers to risk, as the Export-Import Bank does.

Claim 2: The Export-Import Bank maintains and creates jobs

Supporters of federal programs often point to tangible outcomes, like the number of jobs created through federal spending, to justify their existence. Immediate employment effects are easily seen and therefore provide a potent shield against claims of ineffectiveness or waste. However, as the French economist Frédéric Bastiat first astutely pointed out over 150 years ago, good economists and students of public policy must also consider the *unseen* effects of government interventions to accurately perform a cost-benefit analysis. [all emphasis herein in the original]

Even if we take the Ex-Im Bank jobs claim at face value, the Bank influences a negligible number of export jobs. Since there were 11.3 million total export-related jobs in the United States in 2013, that means that the 205,000 jobs that Ex-Im claims to have created or supported represent only 1.8 percent of total export-related jobs. This is consistent with the small share of exports supported by Ex-Im.

Furthermore, this claim only represents the "seen" side of the story. To get a complete picture of the true economic effects of the Export-Import Bank's interventions, we must consider what would have happened if the Export-Import Bank did not spend money in this way. Would American citizens have spent their own funds in a more productive manner than their government did after taxing and distributing funds to the corporations that they chose? Might those decisions have created even more jobs than the ones for which the Export-Import Bank claims credit? There are a few reasons to think this could be the case.

First, foreign companies that receive Ex-Im financing are not necessarily purchasing *more* goods from US firms, but often simply buying different *kinds* of goods. Ex-Im interventions shift resources away from unsubsidized projects and toward artificially cheaper projects that the Bank subsidizes. Many of the jobs the Bank claims to "create" are in reality redirected from unsubsidized firms. The Export-Import Bank disadvantages employees of unsubsidized companies for the benefit of employees of subsidized companies.

These unfortunate consequences have long been known to Washington. A Congressional Budget Office (CBO) report from 1981 explains that under normal economic conditions "subsidized loans to exporters will increase employment in export industries, but this increase will occur at the expense of non-subsidized industries: the subsidy to one industry appears on other industries' books as increased costs and decreased profits."

As we will see later, despite the talk about "financing gaps," most of the loan value backed by the Bank benefits large and well-established companies that have ample alternative financing options. Even small businesses that receive support were often profitable well before Ex-Im operatives came knocking.

Washington has long known about the Bank's tendency to favor familiar firms. President [Ronald] Reagan's former Office of Management and Budget (OMB) director, David Stockman, had more than a few run-ins with the Export-Import Bank and its well-connected corporate beneficiaries as he tried to retire or reform the Bank in the early 1980s. In his words, the idea that export subsidies will create jobs or increase GDP is yet another example of "the single-entry-bookkeeping mentality that has larded the federal budget" with so many subsidies and payments to special interests. Despite its economic illiteracy, it is, for some, a powerful argument to maintain the status quo.

Last but not least, the federal government's own GAO finds that the Bank's job calculation method leaves much to be desired. A May 2013 report criticized the Bank for concealing the many methodological weaknesses that underlie its attractive "205,000 jobs" number. The GAO reports that Ex-Im extrapolates its numbers from the Bureau of Labor Statistic data product that measures how much of the output (revenue) of an industry goes into the input (production) of another industry and its employment equivalent. There are many limitations to this methodology such as the fact that it does not distinguish between full-time, part-time, and seasonal employment, thus painting a rosier, but inaccurate, picture.

Claim 3: The Export-Import Bank supports small businesses

The Export-Import Bank frequently boasts of its outreach and support to small businesses, but these claims are very misleading. The Bank selectively emphasizes portfolio numbers to overstate small business activities, employs an extraordinarily expansive definition of the term "small business," and disperses the majority of its largesse to large, established corporations.

Ex-Im's FY 2013 Annual Report states that "the Bank approved a record 3,413 transactions, or 89 percent, for small businesses." This statement is curiously incomplete. It is true that 89 percent of the total number of deals involved firms that fit the Bank's definition of a "small business." However, when you look at the total *amounts* that the Bank distributes, the picture is decidedly different. During FY 2013, for instance, only $5.2 billion of the $27.3 billion in total authorization amounts, or

19 percent, was designated as "small business" activity on the Ex-Im Bank's annual report. This is concerning, as the Bank's own charter mandates that no less than 20 percent of total authority for each fiscal year be directly made available to small business concerns.

Additionally, the Bank employs a rather unconventional definition of "small business." While the term invokes images of mom-and-pop stores and enterprising startups, Ex-Im's definition is considerably more expansive than that of the Small Business Administration (SBA). With few exceptions, the SBA sets its "small business" threshold at firms with fewer than 500 employees and no more than $7 million in average annual receipts—criteria much stricter than the Bank's. Ex-Im's definition of "small" includes manufacturing and wholesale firms that employ anywhere from 500 to 1,500 workers, general construction firms that earn anywhere between $13.5 million and $17 million a year, and in other sectors, firms with annual revenues of up to $21.5 million.

According to the Bank's data for FY 2013, much of its direct and indirect subsidies benefit giant manufacturers and well-connected exporters. For instance, America's number one exporter, the Boeing Corporation, received roughly 66 percent of the value of all loan guarantees last year. The Bank reports that Boeing was designated primary exporter for 55 deals, valued at roughly $8.3 billion in total assistance. This means that upwards of 30 percent of the value of all Export-Import Bank assistance in 2013 directly benefited the Boeing Corporation. Additionally, the top 10 exporter beneficiaries of Ex-Im assistance—among whom we find General Electric, Dow Chemical, Bechtel, Caterpillar, and John Deere—received a combined total of roughly 75 percent of the value of total assistance last year.

Claim 4: The Export-Import Bank levels the playing field for US exporters competing with foreign corporations subsidized by their own governments

Another popular argument is that the Export-Import Bank is necessary to counteract the competitive disadvantages posed by the export credit agencies of foreign nations. Since foreign firms enjoy the benefits of their own national export subsidy organizations, the argument goes, US firms would struggle to compete internationally if our federal government did not provide similar aid. The US Export-Import Bank is a necessary, although perhaps unfortunate, weapon in this international export subsidy arms race.

Few would disagree that it would be much preferable if US exporters only had to compete on price and quality against unsubsidized foreign companies. However, the fact that other countries choose to engage in bad economic policy does not immediately justify the United States following suit. This argument might hold water if (1) a substantial portion of the Export-Import Bank's portfolio is indeed dedicated to counteracting the effect of foreign export credit agencies; (2) a substantial portion of total US exports depend on Ex-Im assistance to successfully compete on a global scale; and (3) engaging in suboptimal policies because other countries do so makes economic sense.

If the Export-Import Bank were truly a critical tool in counteracting the activities of foreign export credit agencies, the bulk of the Bank's portfolio should to be dedicated to this purpose—which is not the case.

For a long time, the Bank did not specify the exact purpose of each transaction in its reports, so it was difficult to determine how much of its portfolio was dedicated to which goals. However, Congress recently obliged the Bank to provide more explanations for certain portfolio transactions. According to the Bank's 2013 Annual Report, only $12.2 billion of the $37.4 billion portfolio—that is, less than one-third—was dedicated to counteracting competitive disadvantages wrought by foreign export credit agencies. And, as previously mentioned, if export subsidies were truly so critical to competing abroad, then we would expect far more than 2 percent of total US exports to receive Ex-Im assistance. Yet somehow, the other 98 percent of unassisted US exports thrive and successfully compete in the global marketplace.

Ironically, subsidies also damage recipients in the long run by dulling their competitive edge. Subsidized businesses often grow complacent and lazy because they know they can rely on government assistance. When markets change and pressures mount, subsidized industries find that they simply cannot keep up—so they come to Congress for a bailout.

Most importantly, subsidizing exports actually harms US consumers and helps foreign consumers. Indeed, this is one of the selling points of Ex-Im programs. When foreign export agencies subsidize their exporters, they actually help US consumers at the expense of their own citizens. In subsidizing our own exports in response to foreign subsidies, the Export-Import Bank actually hurts US consumers more.

Claim 5: The Export-Import Bank is a good deal for taxpayers

Defenders of the Export-Import Bank often point out that the agency does not cost anything to taxpayers; in fact, they argue, the Bank actually generates profits for the US Treasury. In FY 2013, for example, Ex-Im claimed to return over $1 billion in profits to the Treasury. Regardless of

whether the federal government should or must operate an export-credit agency, the fact that the Export-Import Bank reports profits to the government is enough of a reason for many to support it.

[However,] even if the Bank were profitable today, we could not rely on the Bank to earn profits for American taxpayers for years to come. The Bank ran a deficit several years in a row in the 1980s and was reported to have considered requesting a $3 billion bailout in 1987. This could happen again. [Also,] financial projections are only as sound as the methodologies employed to produce them. Many have been skeptical of the Bank's risk analyses, default assumptions, and accounting methods for years. Some of the most vociferous criticisms have come from within the Export-Import Bank [inspector general], as well as from the GAO and CBO. The errors that these criticisms reveal undercut Ex-Im supporters' claims of profitability and sustainability and in fact reveal that the Bank exposes taxpayers to the risk of "severe portfolio losses," in the words of the Bank's own inspector general.

An alarming 2012 report from the Inspector General of the Export-Import Bank reveals that the Bank does not employ adequate risk analyses. The Bank's unique position as a governmental export credit insurer and underwriter exposes it to a number of unusual risks. In addition to balancing normal market considerations and operational boundaries imposed through legislation, the Bank must also adequately calculate and mitigate taxpayer exposure to credit risks, political risks, currency risks, and various concentration risks riddling its vast portfolio. The inspector general warns that "Ex-Im lacks a systemic approach to identify, measure, price, and reward" these many portfolio risks. This improper loss reserve methodology may have "resulted in the systematic under-reserving and underpricing of the portfolio risk," which significantly limits the predictive veracity of the Bank's projections.

Improper accounting may yield impressive illusions in the short term but will not prevent financial disaster in the event of an unexpected downturn. For many years, Ex-Im skeptics could only point to the dire pleadings of the GAO and Inspector General to bolster their case that the Bank's "profits" may be a misleading accounting fiction. The collapse of the US housing market, prompted partially by the risky underwriting of federal mortgage corporations Freddie Mac and Fannie Mae, provides another cautionary tale.

We do not need to wait for an economic collapse to reveal the financial fallout of the Export-Import Bank's phony accounting. A new CBO report from May of 2014 confirmed the GAO's worst suspicions. The CBO found that the Export-Import Bank's promised budget savings of over $14 billion over the next decade are illusory. The CBO's more accurate accounting method shows that that these Export-Import Bank programs will actually *cost* taxpayers $2 billion over the next decade.

The bottom line is that supporters of the Export-Import Bank can no longer truthfully claim that the Bank's programs are guaranteed to yield a profit to the federal coffers.

Conclusion

The data provide no support for the most popular arguments for the Export-Import Bank.

The Export-Import Bank cannot be shown to "maintain or create" any number of US jobs because the Bank's job calculation methodology is so weak that the GAO had to provide an in-depth audit to shake the Bank into reform. While the Bank at least now includes a brief exposition of these weaknesses deep in its Annual Reports, it insists on continuing to use the old, flawed methodology. Even this flawed job measure constitutes only around 2 percent of the total number of export-related jobs each year. What's more, for every job the Bank can claim to have "created," there are numerous employees of unsubsidized competing firms who can claim to have been hurt by this action.

The Bank cannot claim to play a "critical role in promoting US exports" as the total export value of its annual portfolio only accounts for roughly 2 percent of the total value of US exports each year. The Bank cannot claim to be filling the purported "financing gap," either, as most of its portfolio assists large, connected firms that would have no trouble procuring alternative financing. Finally, economists have long known that export credit agencies have, at best, a tiny effect on national exports compared to potent broader economic trends.

The Bank does not substantially benefit small businesses but disproportionately benefits large corporations like Boeing and General Electric. Supporters like to point to the number of deals given out to small businesses, but in terms of dollar amounts, huge multinational corporations are the clear winners. Even the "small businesses" that Ex-Im claims to support are not exactly "small": Ex-Im's definition of "small business" is far more expansive than the one employed by most federal offices and can include businesses that receive up to $21.5 million in revenues each year.

The Bank cannot claim to level the playing field for US companies that compete against foreign subsidized

competition, either. For one, the United States is the number two export credit subsidizer in the world, beaten only by China. The Bank's own records report that only 30 percent of the estimated export value in its total portfolio goes toward this kind of activity. Even if the Bank's entire portfolio were turned to this purpose, this position is economically untenable. By subsidizing exports, the Export-Import Bank helps foreign consumers and hurts American consumers, taxpayers, and borrowers.

The Bank cannot point to profits for taxpayers because its internal reporting is significantly flawed and CBO analyses show that the Bank will actually cost taxpayers billions of dollars over the next decade. What's more, numerous audits by the CBO, the GAO, and the Bank's own Inspector General show that the Export-Import Bank's internal risk management and accounting practices are woefully inadequate and leave taxpayers exposed to massive liabilities.

The Export-Import Bank fails on each count. An entity that neglects to meet even its supporters' own criteria simply has no justification for existence and no claim to reauthorization. The Bank has long outlived its purpose and cannot manage to meet the standards of the new missions that have been developed to validate its existence. For policymakers who have the facts, the choice is clear: the Export-Import Bank must go.

Veronique De Rugy is a senior research fellow at the Mercatus Center at George Mason University. She holds a PhD in economics from the Pantheon-Sorbonne University in France.



Fred P. Hochberg

NO

Examining Reauthorization of the Export-Import Bank: Corporate Necessity or Corporate Welfare?

[I am here] to testify before you as the Committee considers the progress that the Export-Import Bank of the United States ("Ex-Im Bank" or "the Bank") has made in supporting U.S. jobs through exports since our last reauthorization just two short years ago.

The Administration is requesting a five-year reauthorization of the Export-Import Bank of the United States and a cap of $160 billion. This proposal reflects a stepped increase totaling $20 billion above the [current] exposure cap of $140 billion. The proposal reflects a 2.9 percent annual increase over [this year] and a 14 percent increase over all 5 years. The Bank's mission is to support jobs in the United States by facilitating the export of U.S. goods and services. The reauthorization of the Bank at the $160 billion cap supports an estimated 1.3 million U.S. jobs between 2015 and 2019. The Bank has identified four main macroeconomic factors (competition from other Export Credit Agencies (ECAs), financing for small business exporters, financing for developing/emerging markets, and increasing regulations) that show the continued need for Ex-Im Bank financing support for U.S. exports. Ex-Im evaluated several scenarios, and determined that the $160 billion requested level will provide the needed capacity to continue supporting small business, and fill gaps in trade-financing.

I am proud of the work our 400+ employees do each day to empower U.S. companies and support American job growth. Since our last reauthorization in 2012, Ex-Im Bank has supported nearly half a million American export-backed jobs, while generating nearly two billion dollars for the taxpayers and maintaining a low default rate [on loans] of .211 percent. For perspective, our default rates over the last five years, during the height of the financial crisis shown below illustrate a very responsible approach to our portfolio.

I would like to focus today on three primary issues.

- Requirements set forth in our last reauthorization, including our enhanced risk posture.
- Our impact on small business.
- The heightened need for a robust Ex-Im Bank given the brutally competitive global trade environment faced by American businesses.

Reforms Set Forth in Our Last Reauthorization, Including Our Enhanced Risk Posture

Since our last reauthorization, Ex-Im Bank has met all of the reporting requirements set forth in our reauthorization bill. We produced numerous reports for this Committee.

And the Bank implemented additional reforms aimed at ease of service and minimizing any negative effects on U.S. industry including:

- Increased access to co-financing to better support globalized supply chains
- Streamlined content procedures by providing for annual certifications
- Revised economic impact procedures to airline services

Ex-Im Bank fills gaps in private sector financing and only gets involved when the private sector is unable or unwilling to provide financing or when there is foreign ECA competition. Last year, Ex-Im Bank provided $27.3 billion in authorizations, down from the previous year. This supported $37.4 billion in export value.

We have worked well with the Government Accountability Office (GAO) on several reports that they were tasked with, including reviews of the Bank's Business Plan, [its] jobs calculation methodology, [and its] risk management.

I met with [the head of the GAO] Comptroller General Gene Dodaro to indicate my personal commitment to working cooperatively and in an open and transparent fashion with the GAO on audits. The Comptroller General

Hochberg, Fred P. "Examining Reauthorization of the Export-Import Bank: Corporate Necessity or Corporate Welfare?" from Testimony During Hearings Before the Committee on Financial Services, U.S. House of Representatives, June 25, 2014.

thanked me for arranging the meeting and noted that very few agency heads take the time to come meet with him. He also added that his staff indicated they have a good working relationship with Ex-Im Bank staff.

We have also made a number of changes as a result of recommendations from our Inspector General (IG) and the GAO reviews [to ensure that the loans that the Bank makes are not overly risky and to improve measuring and reporting to Congress related to the cost and impact of the Bank's activities]. [Among other steps,] we created the position of, and hired, a Chief Risk Officer (CRO) who reports directly to me as the President and Chairman. We [also] established a risk committee called the Enterprise Risk Committee (ERC) that assesses comprehensive risk issues and reports semi-annually to the Bank's Board of Directors, while providing the other Directors and me with monthly updates.

Our Positive Impact on Small Business

As a small businessman for 20 years and as a former Acting Administrator of the Small Business Administration, I place a premium on the role that small businesses play in our economy. One of the core missions of Ex-Im Bank is ensuring that small businesses are at the forefront of U.S. exports. We cannot grow our economy without fully supporting the small businesses of America in competing globally.

In 2013, the Bank financed a record 3,413 small businesses—nearly 90 percent of Ex-Im's transactions. This amounted to $5.2 billion in direct small business financing. When you examine the export value of small business exports as a percentage of our overall portfolio export value, of the $37 billion of exports supported by Ex-Im Bank, nearly 33 percent were small businesses.

In addition, Ex-Im financed more small businesses over the last five years than in the prior eight years combined. The Bank also financed more minority- and woman-owned businesses in the last five years than over the prior sixteen years combined.

The Bank also supports tens of thousands of small businesses whose goods are incorporated into larger export products such as transportation, heavy machinery, oil and gas facilities and other manufactured goods. Industry frequently refers to these small business exporters as "hidden exporters." It is important to note that the manufacturing process in the United States has changed significantly over the last few decades. Many more companies use vast supply chains to produce finished goods, as evidenced by our largest exporters. When you see the name of a large company on a name plate of finished goods, there are thousands of small businesses that contributed to that finished product.

Ex-Im Bank supports American jobs in countless cities and towns across America. Since 2009, Ex-Im Bank supported $20 billion in authorizations for Texas businesses and no city in the nation exported more Ex-Im Bank financed goods and services than Houston. We also financed $9 billion in authorizations for California businesses, $1 billion in authorizations for South Carolina businesses, and approximately $500 million in authorizations for Missouri businesses over the past five years—just to name a few. Ex-Im Bank supports exports in all 50 States and Territories.

The Need for Ex-Im Bank Given the Brutally Competitive Global Trade Environment

There are some 60 Export Credit Agencies (ECAs) around the world. Every industrialized country has its own version of Ex-Im, and each is tasked with supporting the domestic exports of their respective nations.

The mission of Ex-Im Bank is to empower U.S. companies—large and small—to turn export opportunities into sales that maintain and create U.S. jobs and contribute to a stronger national economy. When private sector funding is unavailable or there is foreign ECA involvement, Ex-Im Bank provides export financing through its loan, guarantee, and insurance programs in order to level the playing field for U.S. businesses.

Let me provide a few examples.

On a recent visit to Chicago, I met with Mary Howe, a fourth generation small business owner and owner of Howe Corporation. We provide trade credit insurance to Howe Corporation so they can export their ice making machines around the globe. Trade credit insurance enables U.S. exporters, most of them small businesses, to compete and sell overseas with their receivables insured for loss. We provide insurance when the private sector does not, because frequently the dollar volume of small businesses is too small to be of interest to private insurers. Credit insurance is part of running a responsible business, just like fire or theft insurance.

Another example is the working capital guarantee Ex-Im provides to Auburn Leather in Auburn, Kentucky, a town with a population of 1,332 people as of 2012. Auburn Leather makes the laces that are in baseball gloves and boat shoes. Over the years, I've come to know the

owner, Lisa Howlett and I was delighted that Ex-Im could provide a working capital guarantee so that her business could have the liquidity to meet large foreign purchase orders. Ex-Im exists to fill gaps in private sector financing. Nowhere else does this show itself than in insurance for small businesses. These small businesses often grow out of needing Ex-Im Bank and will later obtain private sector financing—which we encourage.

In this global economy, buyers will make procurement decisions based on the availability and attractiveness of financing. Ex-Im Bank provides long-term direct loans and guarantees to foreign buyers of capital goods, so that their best option is to buy a product with the "Made in America" label on it. Our financing supports the export of products from U.S. companies such GE Transportation, so that the sales and jobs arising from their locomotives will benefit workers in Erie and Grove City, Pennsylvania, rather than in Beijing, China.

Ex-Im Bank also provides support, if necessary, to level the playing field when financing is provided by foreign governments to their companies who compete against U.S. exporters. Critics of the Bank argue that Ex-Im should not be involved in helping to level the playing field for U.S. businesses and that the private sector should handle this. I concur. When the private sector can provide financing, we prefer that course of action. Ex-Im Bank does not compete with private sector lenders, but rather provides financing for transactions that would otherwise not take place because commercial lenders are either unable or unwilling to provide financing support. Often, private lenders do not want to get involved with small business exports because the dollar value is too low. Another area is structured finance, which generally requires more than twelve years of financing.

The last five years have seen major shifts in the global financing landscape that could have a serious impact on American competitiveness and economic growth in the years ahead. But despite the global recovery, commercial banks still have not fully regained their appetites for offering the kind of long-term financing necessary to fuel many export projects. As banks withdraw from important areas of export finance just as exports become more vital to economic growth worldwide, ECAs are rising in importance for many nations. More and more, export financing is occurring outside of the international standards put in place by the OECD [Organization of Economic Cooperation and Development] to avoid a financing "race to the bottom." The OECD Arrangement on Officially Supported Export Credits, while not perfect, constitutes the international export credit framework that sets the most generous terms and conditions governments may provide when financing exports. Countries like Russia and China that are not members of the OECD and do not operate within the international export credit framework may offer financing terms that distort the global market. The effect of this can be an increasingly unleveled playing field for American exporters. When the private sector is unable or unwilling to provide financing support, Ex-Im Bank steps in to level the playing field so that American businesses can win their fair share of export orders.

Conclusion

I want to thank this committee for their work on our charter in 2012, and stress the importance of a timely reauthorization in 2014. As I mentioned earlier, there are some 60 Export Credit Agencies around the globe. Make no mistake, these foreign governments want for themselves the 205,000 American jobs Ex-Im financing helped support last year.

As I travel the world on behalf of American companies, I know that my counterparts in China, Brazil, Russia, South Korea, and many others are right behind me, fighting for business. These nations, and many others, are serious competitors in the global marketplace—and each supports its exporters aggressively.

For example, the South Korean ECA, supporting an economy less than one tenth of our size, finances more than 3 times the exports for South Korean companies than the Ex-Im Bank finances for U.S. companies. A few weeks ago, we heard from one exporter at a Capitol Hill roundtable whose business was adversely impacted by the actions of a foreign ECA. Steve Wilburn is a veteran whose small renewable energy company, FirmGreen, has created 165 jobs in California and at suppliers in seven other states since partnering with Ex-Im. A $48 million loan from Ex-Im empowered FirmGreen to bring their innovative ideas, equipment, and services to Brazil. And the Novo Gramacho biogas project will convert dirty methane gas into clean, compressed biomethane gas. That is not just good for the environment. It is good for the U.S. economy, and the communities across America made stronger thanks to an infusion of new jobs. I had the opportunity to visit the Novo Gramacho site not long ago—this is a game-changing technology. Steve is looking at two more sites in Brazil. His company has emerged as a global leader in its field.

But two months ago, Steve was stunned to hear that he lost out on a $57 million project in the Philippines. He had been told he was the preferred supplier. He thought he had it in the bag. But he lost out because his competitor from Korea convinced the buyer that Steve's business might

not have the financing to get it done. They pointed to the debate surrounding Ex-Im's reauthorization, and they said: "There's too much uncertainty there—you can't rely on America." Can't rely on America? That's just wrong.

There is a strong drive to increase exports from many countries around the globe. We need to send the same signal to competitor nations that we stand behind American workers and exporters—and ensure that products stamped "made in the U.S.A." are able to compete on a level playing field. In order for U.S. businesses to be able to compete based on the price and quality of their exports, Ex-Im needs to be there to level the playing field when it comes to meeting foreign ECA competition.

The thousands of businesses that benefit from Ex-Im Bank financing—almost 90 percent of which are small businesses—appreciate the fact that Congress was able to reach an agreement to reauthorize the Bank in 2012. They need to know that we will be around in the years ahead to support them as they face off against increasingly intense foreign competition, grow their exports, and create more jobs here at home.

Every other country is strengthening the capacity of their ECAs to support their domestic exporters. Only the United States is having a conversation about actually making Ex-Im Bank less robust in response to global trends. This uncertainty is only emboldening foreign ECAs in their effort to take jobs away from U.S. businesses.

FRED P. HOCHBERG is chairman and president of the Export-Import Bank of the United States. He has an MBA degree from Harvard University.



EXPLORING THE ISSUE

Should the Export-Import Bank Be Eliminated?

Critical Thinking and Reflection

1. Should the government be in the business of backing loans that are so risky that companies and private banks will not capitalize them?
2. If the Export-Import Bank is making loads that have, as it says, a default rate as low as 2 percent, when the average default rate on regular commercial loans is about 3 percent, is the bank actually making loans that other banks would not?
3. Does it make any difference whether the Export-Import Bank mostly supports loans to foreign buyers of goods from large U.S. companies as long as the purchases make or protect American jobs?

Is There Common Ground?

Somewhat unexpectedly the question of renewing the charter of the Export-Import Bank became a hot topic in 2014. Part of the cause was the fault found with the bank's procedures by the General Accountability Office. Part was the charge that the bank was favoring large corporations over smaller ones. Partisan politics also heated the issue up, with Democrats defending the bank's operation and the Obama administration's recommendation for a five-year charter renewal, and Republicans castigating the bank and pondering only a short-term renewal, perhaps even less than a year, to force the bank to institute reforms. Prospects for a long-term renewal dimmed when House Financial Services Committee Chairman Jeb Hensarling, who led the hearings that were the forum for the selections above, strongly opposed renewing the Export-Import Bank. He called for at least fundamental overhaul of the bank and labeled it as "an offensive form of corporate welfare."

As of this writing in September 2014 with Congress nearing adjournment and with the Export-Import Bank charter about to expire, House Republicans have inserted a clause in the spending bill that will allow the bank to continue to operate until June 30, 2015. That signals some willingness of the Republican leadership to eventually reauthorize the bank as long as it makes the changes they wish. It seems likely this measure will pass and that 2015 will feature round 2 in the debate over the bank's future.

Additional Resources

Bandow, Doug. (May 5, 2014). "Close the Export-Import Bank: Cut Federal Liabilities, Kill Corporate Welfare, Promote Free Trade." *Forbes*.

Hufbauer, Gary Clyde, Fickling, Meera, and Wong, Woan Foong. (May 2011). "Revitalizing the Export-Import Bank." Policy Brief PB11-6, Petersen Institute for International Economics, online at http://wwww.iie.com/publications/pb/pb11-06.pdf

Ikenson, Daniel J. (2014). "Export-Import Bank Debate Suggests Traditional Opponents of Corporate Welfare See Tea Party as Bigger Evil." CATO Insitute website at: http://www.cato.org/publications/commentary/export-import-bank-debate

This article highlights the irony that congressional liberals who once attacked the bank now support it, while some Republicans have turned against it under pressure from the Tea Party wing of the party. The article first appeared in *Forbes* on July 3, 2014.

Ilias Akhtar, Shayerah, Carpenter, David H., Levit, Mindy R., and Taylor, Julia. (August 1, 2014). *Export-Import Bank Reauthorization: Frequently Asked Questions*. Congressional Research Service, Report 443671, online at: http://fas.org/sgp/crs/misc/R43671.pdf

Internet References . . .

Export-Import Bank of the United States

On the website of the National Association of Manufacturers

http://www.nam.org/Issues/Trade/Ex-Im-Bank.aspx

www.exim.gov/

Tweets on EximBankUS

https://twitter.com/EximBankUS

Export-Import Bank: Status of GAO Recommendations on Risk Management, Exposure Forecasting, and Workload Issues

http://www.gao.gov/products/GAO-14-708T



Unit 3

UNIT

Armaments, War, and Terrorism Issues

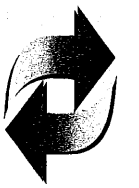
Global peace has for most of human history been an idea that has been primarily a subject for philosophers, religious leaders, and other thinkers rather than political leaders. That began to change a little more than a century ago when rapid advances in weapons technology enabled warring peoples to kill one another in ever larger numbers. By the mid-1800s, the first attempts were underway to create treaties to prevent wars if possible and limit them if not. For example, the Geneva Convention of 1864 was the first treaty to detail how wounded prisoners of war should be treated. Then the Hague Convention of 1897 created a Permanent Court of Arbitration to settle international disputes and, if wars did occur, it contained such restraints on their conduct as barring shooting from or dropping explosives from balloons.

Of course, wars have not ceased and the power of weaponry has grown exponentially. The nuclear age brought humans the literal capability of wiping themselves out. Responding to these changes, the efforts to prevent and limit wars and other form of violence have also grown greatly. Now the process is ongoing. Numerous arms control treaties have been negotiated and gone into effect. Other such treaties, such as the Comprehensive (Nuclear) Test Ban Treaty (CTBT), await the ratification of a handful of countries in order to become international law. There have also been additional treaties about the treatment of prisoners of war. New courts to settle disputes have been created and new regional organizations, such as the Organization of American States, and global organizations, such as the United Nations, have been founded primarily to keep peace.

It is possible to debate how much impact these efforts to prevent or regulate war have had, but it is clear that they have not achieved their ultimate goal of peace. The CTBT remains an open issue. New weapons technology, such as drone warfare, have arisen and need to be regulated. Some types of violence, such as terrorism, have become more prominent, and it and such questions as who is a terrorist and who is not need to be addressed. This reality of work to be done and questions to be resolved is the focus of this unit.

Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Should the United States Ratify the Comprehensive Nuclear Test Ban Treaty?

YES: Ellen Tauscher, from "The Case for the Comprehensive Nuclear Test Ban Treaty," *U.S. Department of State* (2011)

NO: Baker Spring, from "U.S. Should Reject Ratification of the Comprehensive Test Ban Treaty," *The Heritage Foundation Web Memo* (2011)

Learning Outcomes

After reading this issue, you will be able to:

- Relate the background of the debate over whether to ratify the Comprehensive Nuclear Test Ban Treaty (CTBT).
- Explain why the Obama administration wants the Senate to ratify the CTBT.
- Lay out the arguments against ratifying the treaty.
- Detail the procedural and political barriers to the Senate ratifying the treaty.

ISSUE SUMMARY

YES: U.S. Under Secretary of State for Arms Control and International Security Ellen Tauscher expresses the view that the United States will lose nothing and gains much by ratifying the Comprehensive Test Ban Treaty.

NO: Baker Spring, the F. M. Kirby Research Fellow in National Security Policy at The Heritage Foundation, asserts that the problems with the Comprehensive Test Ban Treaty that led the U.S. Senate to reject it in 1999 have, if anything, worsened in the intervening years.

A blinding flash, doomsday roar, and destructive pressure wave announced the first atomic weapons blast, the U.S. test near Alamogordo, New Mexico, on July 16, 1945. Following this first atomic test, the annual number of tests mushroomed to 178 in 1962. Then testing began to ebb in response to a number of arms control treaties beginning with the 1963 U.S.–U.S.S.R. Limited Test Ban Treaty prohibiting nuclear weapons tests in the atmosphere, in outer space, or under water; a declining need to test; and increasing international condemnation of those tests that did occur. The number of annual tests dipped into single numbers in 1992 for the first time in 35 years, and since 1996 there have been no American, British, Chinese, French, or Russian tests. Then in 1998 a series of tests marked India and Pakistan's acquisition of nuclear weapons. The most recent tests as of late 2014 were conducted in 2006, 2009, and 2013 by North Korea. With them, North Korea became the eighth country with an acknowledged nuclear arsenal (Israel has an unacknowledged arsenal). Because of the frequent secrecy of tests, there are disputes about the exact number of tests that

have occurred, but the reputable Stockholm International Peace Research Institute (SIPRI) puts the total at 2,054.

One of the major efforts in arms control has been to ensure that no further nuclear weapons tests will ever occur. The centerpiece of that goal is the Comprehensive Test Ban Treaty (CTBT), which bans all such tests. The treaty was concluded in 1996, and 155 countries (79 percent of all countries) have ratified it as of early 2012. Nevertheless, the CTBT remains in limbo because it will not become operational until all the 44 countries that had nuclear reactors in 1996 ratify it. Several such countries, including the United States and China, have not ratified it. With President Bill Clinton in the White House, the United States signed the treaty in 1996, but the Senate rejected it in 1999. The vote of 48 yeas to 51 nays fell far short of the two-thirds vote necessary to ratify a treaty.

The Senate action has not meant new U.S. tests, however. The last of these 1,032 tests conducted occurred in 1992, and in the first selection U.S. Under Secretary of State for Arms Control and International Security Ellen Tauscher argues that the United States no longer needs to conduct nuclear explosive tests and, therefore, the Senate should reconsider its 1999 vote and ratify the CTBT. In the second selection, Baker Spring, a national security expert at the Heritage Foundation, disagrees. He contends that the reasons that the Senate rejected the CTBT remain relevant and that the effort to revive the treaty is an attack on the Senate's integrity.



YES

Ellen Tauscher

The Case for the Comprehensive Nuclear Test Ban Treaty

Many of you have heard me speak many times about what this Administration intended to accomplish and what we have accomplished. In the two years since President [Barack] Obama's speech in Prague, the Administration has taken significant steps and dedicated unprecedented financial, political, and technical resources to prevent proliferation, live up to our commitments, and to move toward a world without nuclear weapons. [In an April 2009 speech in Prague, the Czech Republic, President Obama said, "To put an end to Cold War thinking, we will reduce the role of nuclear weapons in our national security strategy and urge others to do the same."]

Under the President's leadership, we have achieved the entry into force of the New START agreement, adopted a Nuclear Posture Review that promotes nonproliferation and reduces the role of nuclear weapons in our national security policy, and helped to achieve a consensus Action Plan at the 2010 Nuclear Nonproliferation Treaty Review Conference.

The Administration also convened the successful 2010 Nuclear Security Summit, helped secure and relocate vulnerable nuclear materials, led efforts to establish an international nuclear fuel bank, and increased effective multilateral sanctions against both Iran and North Korea. As for what's next, our goal is to move our relationship with Russia from one based on Mutually Assured Destruction to one on Mutually Assured Stability. We want Russia inside the missile defense tent so that it understands that missile defense is not about undermining Russia's deterrent.

Even though this is a bipartisan goal—President [Ronald] Reagan and President [George H. W.] Bush both supported missile defense cooperation—it will not be easy. I know that many of you have opposed missile defenses. I have as well when the plans were not technically sound or the mission was wrong. But this Administration is seeking to turn what has been an irritant to U.S.–Russian relations into a shared interest. Cooperation between our militaries, scientists, diplomats, and engineers will be more enduring and build greater confidence than any type of assurances. We are also preparing for the next steps in nuclear arms reductions, including—as the President has directed—reductions in strategic, non-strategic, and non-deployed weapons. We are fully engaged with our allies in this process.

But let me turn to the Comprehensive Test Ban Treaty. President Obama vowed to pursue ratification and entry into force of the CTBT in his speech in Prague. In so doing the United States is once again taking a leading role in supporting a test ban treaty just as it had when discussions first began more than 50 years ago.

As you know, in the aftermath of the Cuban Missile Crisis, the United States ratified the Limited Test Ban Treaty, which banned all nuclear tests except those conducted underground. The Cuban Missile Crisis, which was about as close as the world has ever come to a nuclear exchange, highlighted the instability of the arms race. Even though scholars have concluded that the United States acted rationally, the Soviet Union acted rationally, and even [Cuba's President] Fidel Castro acted rationally, we came perilously close to nuclear war. Luck certainly played a role in helping us avoid nuclear catastrophe.

In the months after the crisis, President [John F.] Kennedy used his new found political capital and his political skill to persuade the military and the Senate to support a test ban treaty in the hopes of curbing a dangerous arms race. He achieved a Limited Test Ban Treaty, but aspired to do more. Yet, today, with more than 40 years of experience, wisdom, and knowledge about global nuclear dangers, a legally binding ban on all nuclear explosive testing still eludes us. This being Washington, everything is seen through a political lens. So before discussing the merits of the Treaty, let me talk about this in a political sense for a moment. I know that the conventional wisdom is that the ratification of New START [Strategic Arms Reduction Treaty] has delayed or pushed aside consideration of the CTBT. I take the opposite view.

The New START debate, in many ways, opened the door for the CTBT. Months of hearings and debate and

Tauscher, Ellen. Remarks at Arms Control Association Annual Meeting, U.S. Department of State, Washington, DC, May 10, 2011.

nine long days of floor deliberations engaged the Senate, especially its newer Members, in an extended seminar on the composition of our nuclear arsenal, the health of our stockpile, and the relationship between nuclear weapons and our national security. When the Senate voted for the Treaty, it inherently affirmed that our stockpile is safe, secure, and effective, and can be kept so without nuclear testing.

More importantly, the New START debate helped cultivate emerging new arms control champions, such as Senator [Jeanne] Shaheen [D-NH] and Senator [Bob] Casey [D-PA], who are here today. Before the debate, there was not a lot of muscle memory on treaties, especially nuclear treaties in the Senate. Now, there is. So we are in a stronger position to make the case for the CTBT on its merits. To maintain and enhance that momentum, the Obama Administration is preparing to engage the Senate and the public on an education campaign that we expect will lead to ratification of the CTBT.

In our engagement with the Senate, we want to leave aside the politics and explain why the CTBT will enhance our national security. Our case for Treaty ratification consists of three primary arguments.

One, the United States no longer needs to conduct nuclear explosive tests, plain and simple. Two, a CTBT that has entered into force will obligate other states not to test and provide a disincentive for states to conduct such tests. And three, we now have a greater ability to catch those who cheat.

Let me take these points one by one.

From 1945 to 1992, the United States conducted more than 1,000 nuclear explosive tests—more than all other nations combined. The cumulative data gathered from these tests have provided an impressive foundation of knowledge for us to base the continuing effectiveness of our arsenal. But historical test data alone is insufficient.

Well over a decade ago, we launched an extensive and rigorous Stockpile Stewardship program that has enabled our nuclear weapons laboratories to carry out the essential surveillance and warhead life extension programs to ensure the credibility of our deterrent.

Every year for the past 15 years, the Secretaries of Defense and Energy from Democratic and Republican Administrations, and the directors of the nuclear weapons laboratories have certified that our arsenal is safe, secure, and effective. And each year they have affirmed that we do not need to conduct explosive nuclear tests.

The lab directors tell us that Stockpile Stewardship has provided a deeper understanding of our arsenal than they ever had when testing was commonplace. Think about that for a moment. Our current efforts go a step beyond explosive testing by enabling the labs to anticipate problems in advance and reduce their potential impact on our arsenal—something that nuclear testing could not do. I, for one, would not trade our successful approach based on world-class science and technology for a return to explosive testing.

This Administration has demonstrated an unprecedented commitment to a safe, secure, and effective arsenal so long as nuclear weapons exist. Despite the narrative put forward by some, this Administration inherited an underfunded and underappreciated nuclear complex. We have worked tirelessly to fix that situation and ensure our complex has every asset needed to achieve its mission.

The President has committed $88 billion in funding over the next decade to maintain a modern nuclear arsenal, retain a modern nuclear weapons production complex, and nurture a highly trained workforce. At a time when every part of the budget is under the microscope, this pledge demonstrates our commitment and should not be discounted. To those who doubt our commitment, I ask them to put their doubts aside and invest the hard work to support our budget requests in the Congress.

When it comes to the CTBT, the United States is in a curious position. We abide by the core prohibition of the Treaty because we don't need to test nuclear weapons. And we have contributed to the development of the International Monitoring System. But the principal benefit of ratifying the Treaty, constraining other states from testing, still eludes us. That doesn't make any sense to me and it shouldn't make any sense to the Members of the Senate.

I do not believe that even the most vocal critics of the CTBT want to resume explosive nuclear testing. What they have chosen instead is a status quo where the United States refrains from testing without using that fact to lock in a legally binding global ban that would significantly benefit the United States.

Second, a CTBT that has entered into force will hinder other states from advancing their nuclear weapons capabilities. Were the CTBT to enter into force, states interested in pursuing or advancing a nuclear weapons program would risk either deploying weapons that might not work or incur international condemnation and sanctions for testing.

While states can build a crude first generation nuclear weapon without conducting nuclear explosive tests, they would have trouble going further, and they probably wouldn't even know for certain the yield of the weapon they built. More established nuclear weapons states could not, with any confidence, deploy advanced

nuclear weapon capabilities that deviated significantly from previously tested designs without explosive testing.

Nowhere would these constraints be more relevant than in Asia, where you see states building up and modernizing their forces. A legally binding prohibition on all nuclear explosive testing would help reduce the chances of a potential regional arms race in the years and decades to come.

Finally, we have become very good at detecting potential cheaters. If you test, there is a very high risk of getting caught. Upon the Treaty's entry into force, the United States would use the International Monitoring System [IMS] to complement our own state of the art national technical means to verify the Treaty.

In 1999, not a single certified IMS station or facility existed. We understand why some senators had doubts about its future, untested capabilities. But today the IMS is more than 75 percent complete. Two hundred fifty-four of the planned 321 monitoring stations are in place and functioning. And 10 of 16 projected radio-nuclide laboratories have been completed. The IMS detected both of North Korea's two announced nuclear tests.

While the IMS did not detect trace radioactive isotopes confirming that the 2009 event was in fact a nuclear explosive test, there was sufficient evidence to support an on-site inspection. On-site inspections are only permissible once the Treaty enters into force. An on-site inspection could have clarified the ambiguity of the 2009 test.

While the IMS continues to prove its value, our national technical means remain second to none and we continue to improve them. Last week, our colleagues at the NNSA conducted the first of a series of Source Physics Experiments at the Nevada Nuclear Security Site. These experiments will allow the United States to validate and improve seismic models and the use of new generation technology to further monitor compliance with the CTBT. Senators can judge our overall capabilities for themselves by consulting the National Intelligence Estimate released last year.

Taken together, these verification tools would make it difficult for any state to conduct nuclear tests that escape detection. In other words, a robust verification regime carries an important deterrent value in and of itself. Could we imagine a far-fetched scenario where a country might conduct a test so low that it would not be detected? Perhaps. But could a country be certain that it would not be caught? That is unclear. Would a country be willing to risk being caught cheating? Doubtful, because there would be a significant cost to pay for those countries that test.

We have a strong case for Treaty ratification. In the coming months, we will build upon and flesh out these core arguments. We look forward to objective voices providing their opinions on this important issue. Soon, the National Academy of Sciences, a trusted and unbiased voice on scientific issues, will release an unclassified report examining the Treaty from a technical perspective. The report will look at how U.S. ratification would impact our ability to maintain our nuclear arsenal and our ability to detect and verify explosive nuclear tests.

Let me conclude by saying that successful U.S. ratification of the CTBT will help facilitate greater international cooperation on the other elements of the President's Prague Agenda. It will strengthen our leverage with the international community to pressure defiant regimes like those in Iran and North Korea as they engage in illicit nuclear activities. We will have greater credibility when encouraging other states to pursue nonproliferation objectives, including universality of the Additional Protocol.

In short, ratification helps us get more of what we want. We give up nothing by ratifying the CTBT. We recognize that a Senate debate over ratification will be spirited, vigorous, and likely contentious. The debate in 1999, unfortunately, was too short and too politicized. The Treaty was brought to the floor without the benefit of extensive Committee hearings or significant input from Administration officials and outside experts.

We will not repeat those mistakes.

But we will make a more forceful case when we are certain the facts have been carefully examined and reviewed in a thoughtful process. We are committed to taking a bipartisan and fact-based approach with the Senate.

For my Republican friends who voted against the Treaty and might feel bound by that vote, I have one message: Don't be. The times have changed. Stockpile Stewardship works. We have made significant advances in our ability to detect nuclear testing. As my good friend George Shultz [U.S. Secretary of State, 1982–1989 in the Reagan adminstration] likes to say, those who opposed the Treaty in 1999 can say they were right, but they would be right to vote for the Treaty today.

We have a lot of work to do to build the political will needed to ratify the CTBT. Nuclear testing is not a front-burner issue in the minds of most Americans, in part, because we have not tested in nearly 20 years. To understand the gap in public awareness, just think that in 1961 some 10,000 women walked off their job as mothers and housewives to protest the arms race and nuclear testing. Now, that strike did not have the same impact as the nonviolent marches and protests to further the cause of Civil Rights.

But the actions of mothers taking a symbolic and dramatic step to recognize global nuclear dangers showed that

the issue has resonance beyond "the Beltway," beyond the think tank world and beyond the Ivory Tower. That level of concern is there today and we need your energy, your organizational skills, and your creativity to tap into it.

If we are to move safely and securely to a world without nuclear weapons, then we need to build the requisite political support and that can only be done by people like you.

ELLEN TAUSCHER is the U.S. Under Secretary of State for arms control and international security. She previously served in the U.S. House of Representatives representing the Tenth Congressional District of California. She has been an investment banker and a member and officer of the New York Stock Exchange. Tauscher holds a BS degree from Seton Hall University.



Baker Spring

NO

U.S. Should Reject Ratification of the Comprehensive Test Ban Treaty

The United States Senate voted to reject ratification of the 1996 Comprehensive Test Ban Treaty (CTBT) on October 13, 1999 [by a vote of 48 in favor to 51 opposed]. This determinate action by the Senate should have marked the end of consideration of the treaty by the U.S. Nevertheless, Under Secretary of State for Arms Control and International Security Ellen Tauscher recently told an audience that the Administration is preparing to engage the Senate and the public on an education campaign that is designed to lead to U.S. ratification of the CTBT.

The substantive problems that led to the Senate's considered judgment in 1999 remain relevant today. If anything, they have worsened in the intervening years. But procedurally, there is no justification for reconsideration of the treaty today. The institutional integrity of the Senate is now at stake.

Substantive Problems with the CTBT Persist

According to Tauscher, Senate consent to the ratification of the CTBT may be justified on the basis that "times have changed." In reality, the substantive problems with the CTBT that led to its rejection in 1999 are still present. In fact, the problems regarding the maintenance of a safe, reliable, and militarily effective nuclear arsenal have grown worse over the intervening years:

- **The CTBT does not define what it purports to ban.** The text of the treaty remains identical to that which the Senate rejected in 1999. Its central provision, as well as its object and purpose, is to ban explosive nuclear testing. The treaty does not, however, define the term. The U.S. interpretation is that it means a "zero-yield" ban, but other states may not share that interpretation.
- **The U.S. nuclear weapons complex has grown weaker during the intervening years.** After considerable pressure from a number of senators, chief among them Jon Kyl (R-AZ), about the alarming decline in the U.S.'s nuclear weapons, the [President Barack] Obama Administration committed to invest more money in the complex in order to pressure the Senate into granting consent to the badly flawed New START [Strategic Arms Reduction Treaty] arms control treaty with Russia. [The New START agreement was ratified by the U.S. Senate in December 2010.] But this investment program is only just getting started, and its success is far from guaranteed.
- **A zero-yield ban on nuclear explosive tests remains unverifiable.** If the U.S. interpretation of the CTBT as a zero-yield ban is accurate, it was impossible to verify the ban in 1999, and it remains so today. The International Monitoring System (IMS) being put in place to detect violations depends largely on seismic evidence. The fact is that extremely low-yield tests are not likely to be detected by the IMS. Even Tauscher acknowledged that it is possible that a "country might conduct a test so low [in yield] that it would not be detected." At the same time, she dismissed this possibility as "far-fetched." In reality, it is not at all far-fetched.
- **The Obama Administration has imposed self-defeating output limits on the nuclear weapons modernization program.** While the Obama Administration has pledged to increase the investment level in the nuclear weapons complex and stockpile stewardship programs, it is also imposing limits on what the complex and program may do. Specifically, the April 2010 Nuclear Posture Review Report [by the U.S. Department of Defense] states: "The United States will not develop new nuclear warheads. . . . Life Extension Programs will use only nuclear components based on previously tested designs, and will not support new military missions or provide for new military capabilities."
- **Nuclear proliferation trends are pointing in the wrong direction.** The Obama Administration sees

Spring, Baker. "U.S. Should Reject Ratification of the Comprehensive Test Ban Treaty," *Heritage Foundation Web Memo*, May 26, 2011. Copyright ©2011 by The Heritage Foundation. Used with permission.

its nuclear disarmament agenda, of which CTBT ratification is a part, as necessary to giving the U.S. the moral standing to combat nuclear proliferation. The fact that countries such as Iran, North Korea, and Pakistan are continuing to pursue or expand their nuclear weapons capabilities suggests that the Obama Administration's moral suasion argument is ineffective and that Iran and North Korea view the U.S. commitment to nuclear disarmament as a sign of weakness to be exploited.

Undermining the Senate's Institutional Integrity

Tauscher charged that the debate in the Senate in 1999 was too politicized and too short. Contrary to her assertion, the Senate's opponents of CTBT ratification did not fail to exercise due diligence in their review of CTBT at that time. They reviewed the treaty carefully and made considered arguments against ratification. Their arguments proved convincing to the Senate as a whole, and they prevailed overwhelmingly in the subsequent vote.

Regarding the time for consideration, it was CTBT proponents in the Senate that insisted on its immediate consideration in 1999. They effectively charged Senator Jesse Helms (R-NC), a leading opponent of ratification, with engaging in obstructionism over the matter. Further, the debate and vote on the CTBT in the Senate was conducted under a painstakingly worked out *unanimous* consent agreement. This is a far cry from the recent procedure for the consideration of New START, where proponents, having failed to achieve a unanimous consent agreement, simply rammed the treaty through by invoking cloture [thereby ending a filibuster by the treaty's opponents]. Clearly, the proponents of the CTBT now view the Senate's 1999 vote to reject CTBT as procedurally illegitimate only because they lost.

The Senate should not take such an attack on its integrity lightly. Members of the Senate, therefore, would be justified in sending a letter to President Obama making the following two requests:

1. **That President Obama ask the Senate to return the CTBT to the executive branch.** On the basis that the 1999 Senate vote to reject ratification of the CTBT was the Senate's considered and institutional judgment on the matter, President Obama should ask the Senate to terminate any further domestic consideration of the treaty's ratification by returning it to the executive branch. If President Obama fails to respond, the Senate may wish to consider returning the treaty to the executive branch on its own volition.
2. **That President Obama announce that the U.S. has no intention of ratifying the CTBT.** Senators may also ask President Obama to act in a manner consistent with Article 18 of the Vienna Convention on the Law of Treaties and announce that the U.S. has no intention of ratifying the CTBT. Not only would this relieve the U.S. of the obligation not to take actions contrary to the object and purpose of the treaty, but it would resolve the entire matter of CTBT entry into force. This is because Article XIV of the treaty requires that the U.S., among other states, become a party before it may enter into force. Senators, by making this request, would help bring the entire matter of the CTBT's entry into force to an appropriate conclusion.

Stand Up

The Senate's action to reject ratification in 1999 should be recognized and honored by its current members. Nothing has changed in the past 12 years to make the treaty any more palatable. Moreover, the integrity of the Senate as an institution is now being attacked. The Senate should not take this attack lying down.

Baker Spring is F. M. Kirby Research Fellow in National Security Policy in the Douglas and Sarah Allison Center for Foreign Policy Studies at the Heritage Foundation. He served as a defense and foreign policy expert on the staffs of U.S. Senators Paula Hawkins (R-FL) and David Karnes (R-NE). He received his master's degree in national security studies from Georgetown University.

EXPLORING THE ISSUE



Should the United States Ratify the Comprehensive Nuclear Test Ban Treaty?

Critical Thinking and Reflection

1. Neither side in the debate can be absolutely sure that what they advocate is the best path to peace and security. Is it better to err on the side of taking a further step to eliminating all nuclear arms or is it better to err on the side of "peace through strength," as President Ronald Reagan used to say?
2. There is an argument that nuclear weapons have been a force for peace because they have made war between the major powers too dangerous. Do you think that argument has any validity?
3. Do growing tensions between the Untitled States and China and the United States and Russia, each of which is an issue in this volume, make it more likely or less likely that you would support ratifying the CTBT or do these tension make no difference in your opinion?
4. Given the huge number of nuclear weapons that the United States has deployed or in reserve, does it make any difference in your view of the CTBT issue if countries like North Korea or Iran acquire a small nuclear arms inventory?

Is There Common Ground?

The possibility that the Senate might reverse its 1999 rejection of the CTBT has gone from dim to almost completely dark in response to the behavior of Russia in particular, and the growing strength of and tensions with China more generally. In late August 2014 during the crisis over Ukraine Putin rattled his nuclear arms, proclaiming, "I want to remind you that Russia is one of the most powerful nuclear nations. . . . This is a reality, not just words." Then just two weeks later, Russia tested a new version of its submarine-launched ballistic missiles, and, in a speech to military officers, Putin pointed to what he characterized as threats by the North Atlantic Treaty Organization and announced an increased effort to modernize Russia's strategic nuclear capabilities. "We have warned many times that we would have to take corresponding countermeasures to ensure our security," he told the audience. He added that the West should not get "hysterical" about Russia's intentions and claimed that a new nuclear arms race was "absolutely excluded." There have also been allegations that Russia has violated the Intermediate-Range Nuclear Forces Treaty (1987), by which President Ronald Reagan and Soviet President Mikhail Gorbachev agreed to eliminate all their nuclear-capable missiles with ranges between 500 and 5,000 kilometers (about 300 to 3,000 miles).

The common reaction to these events is to oppose taking further steps to try to eliminate nuclear weapons even through such methods as barring non-nuclear armed countries from developing or testing them and for the countries that have nuclear weapons, restrictions on testing and decreasing limits on the number, types, and capabilities of their nuclear arsenals. Perhaps that is the wrong reaction, one that could create a self-fulfilling prophecy that will initiate a new and explosively dangerous arms race.

For now, a middle ground is the existing self-imposed moratorium on testing by all the major nuclear powers. The Senate may have rejected the CTBT in 1999, but during the 15 following years the United States has not conducted any tests. Nor have China or Russia. Only three nuclear explosive tests have occurred, all by North Korea, during these years.

Additional Resources

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http://armscontrolcenter.org/issues/nuclearweapons/articles/fact_sheet_global_nuclear_weapons_inventories_in_2014/

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http://www.ctbto.org/

United Nations Office of Disarmament Affairs

http://www.un.org/disarmament/WMD/Nuclear/CTBT.shtml



Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Is the Nuclear Deal with Iran Good for International Security?

YES: Barack Obama, from "Remarks by the President on the Iran Nuclear Deal," *Whitehouse.gov* (2015)

NO: Dick Cheney, from "Remarks by the Former Vice President on the Nuclear Deal with Iran and the Implications for U.S. Security," *AEI Media* (2015)

Learning Outcomes

After reading this issue, you will be able to:

- Describe the commitments made by states in the Nuclear Non-Proliferation Treaty (NPT).
- Explain the development of the Iranian nuclear program.
- Describe the main components of the Comprehensive Joint Plan of Action (JCPOA).
- Explain the roles of the International Atomic Energy Agency (IAEA) in monitoring the JCPOA.

ISSUE SUMMARY

YES: Barack Obama, in a speech given at the American University in Washington, DC, while still President of the United States, makes the case for Congress to support the Joint Comprehensive Plan of Action agreement, after it was signed by Iran, Russia, France, China, Germany, the United Kingdom and United States in 2015. He argues that the agreement includes the most intrusive inspection regime ever negotiated, making the path to a nuclear weapon virtually impossible. He also suggests that the alternatives to the agreement are either a nuclear Iran or another war in the Middle East.

NO: Dick Cheney, former vice president of the United States, contends that the agreement is seriously flawed and that by allowing them to continue uranium enrichment and missile development, among other things, it has undermined the Non-Proliferation Treaty and emboldened the Iranian regime.

The principal international treaty dealing with the proliferation of nuclear weapons is the Nuclear Non-Proliferation Treaty (NPT). The NPT came into force in 1970 and contains three core commitments. Firstly, the states that had tested nuclear devices before January 1, 1967—herein referred to as the Nuclear 5 (China, Russia, France, the United States, and United Kingdom)—all committed to negotiate in "good faith" toward "complete nuclear disarmament." Secondly, all other states that joined the NPT did so as Non-Nuclear States and committed never to acquire nuclear weapons. Thirdly, the Nuclear 5 promised to help the Non-Nuclear States benefit from the peaceful use of nuclear energy.

The International Atomic Energy Agency (IAEA), an independent international organization that had already been established in 1957 to help states enjoy the peaceful use of nuclear energy, was given the additional task of monitoring the Non-Nuclear States to ensure none of them built clandestine nuclear weapons programs. The Non-Nuclear States were required to sign "safeguard agreements" with the IAEA in which they agreed to provide

it with information concerning any nuclear energy programs they possessed and to allow IAEA inspections of any "declared" nuclear facilities. In the 1990s, the IAEA developed an Additional Protocol to the NPT that requires states to provide even more detailed information, allows for "snap" inspections of suspected nuclear facilities as well as environmental testing to better catch cheating.

The NPT has not been entirely successful in preventing nuclear proliferation. Firstly, despite being one of the international community's most universal treaties, there are still a small number of states that have never joined and have thus been relatively free to build their own nuclear weapons programs. These include India, Pakistan, and Israel. Only one state has ever left the NPT to pursue a nuclear weapons program, North Korea (the focus of the next issue). Iran has been a signatory of the NPT since it was first established, though it has been subject to increased scrutiny since a clandestine nuclear program was discovered there in the early 2000s.

When Iran first signed the NPT in 1968 it was ruled by a pro-Western monarch, Shah Mohammed Reza Pahlavi. However, he was eventually overthrown in 1979 in a revolution that led to the establishment of an Islamic theocratic republic under the leadership of the Ayatollah Ruhollah Khomeini.

During the 1980s, Iran fought a horrendous eight-year war with Iraq, one in which Iraq used chemical weapons. Partly because of that experience and the fear that Iraq was pursuing nuclear weapons program of its own, Iran moved to begin production of enriched uranium and to take other steps to produce nuclear fuel. Iran's actions also reflected its desire to become a regional power and its fear of the United States.

Iran's fears worsened after President George W. Bush declared it to be part of an "axis of evil," along with North Korea and Iraq, in his 2002 State of the Union address. The United States had already invaded Afghanistan, a neighbor of Iran, and was beating the drums of war toward Iraq, which bordered Iran to the West. If America invaded Iraq (as it actually did in 2003), Iran knew that it would be surrounded.

In this highly charged atmosphere, a London-based Iranian dissident group held a press conference in August 2002, during which they announced that Iran had built undeclared nuclear facilities near the towns of Arak and Natanz. Subsequent negotiations led by France, Germany, and the United Kingdom (EU 3) failed to persuade the Iranians to dismantle the program, leading to an official rebuke by the IAEA in June 2004 for its failure to cooperate with their inspectors. In April 2006, Iran announced that it had enriched uranium to 3.5 percent—far below weapons-grade uranium (over 90 percent HEU), but in doing so demonstrated that it had the technical know-how to enrich further. Iran also continued to assert that its enrichment program was purely peaceful and, as such, was its legal right under the NPT.

Fearful that the Iranians would continue to enrich toward weapon-grade HEU, China, Russia, France, United Kingdom, United States, and Germany (referred to as the P5+1) offered a new framework agreement to persuade the Iranians to suspend their program. When Iran refused, the UN Security Council imposed sanctions for the first time in December 2006. This was to be the first of four rounds of Security Council sanctions which, together with additional sanctions imposed by the United States and EU, significantly impacted the Iranian economy. The Obama administration estimated that Iran's economy was 15–20 percent smaller than it would have been without the sanctions.

In June 2013, a new President of Iran, Hassan Rouhani, was elected on a reformist platform with promises to open Iran up to the global economy and improve the social and economic conditions of ordinary Iranians. Although the most important Iranian foreign policy decisions are still mediated by the country's Supreme Leader (currently Ayatollah Ali Khamenei) the momentum toward compromise was building and an interim agreement to freeze Iran's nuclear enrichment program was reached in November 2013, while negotiations continued on a longer term deal. That agreement was reached nearly two years later in July 2015, with the announcement of the Joint Comprehensive Plan of Action (JCPOA).

President Obama, in a speech given at American University in August 2015, just weeks before the US Congress was due to vote on the agreement, argues that the JCPOA is good for international security because it includes the most intrusive inspection regime ever negotiated, making the Iranian path to a nuclear weapon virtually impossible. He also suggests that the only real alternatives to the agreement are a nuclear Iran or another war in the Middle East.

Vice president, Dick Cheney, in a speech given at the American Enterprise Institute in September 2015, contends that the agreement is actually seriously flawed and that by allowing Iran to continue uranium enrichment and missile development, among other things, it has undermined the NPT, emboldened the theocratic and aggressive Iranian regime and thereby made the world much less safe.

YES

Barack Obama

Remarks by the President on the Iran Nuclear Deal

Fifty-two years ago, President Kennedy, at the height of the Cold War, addressed this same university on the subject of peace. The Berlin Wall had just been built. The Soviet Union had tested the most powerful weapons ever developed. China was on the verge of acquiring a nuclear bomb. Less than 20 years after the end of World War II, the prospect of nuclear war was all too real. With all of the threats that we face today, it's hard to appreciate how much more dangerous the world was at that time.

In light of these mounting threats, a number of strategists here in the United States argued that we had to take military action against the Soviets, to hasten what they saw as inevitable confrontation. But the young President offered a different vision. Strength, in his view, included powerful armed forces and a willingness to stand up for our values around the world. But he rejected the prevailing attitude among some foreign policy circles that equated security with a perpetual war footing. Instead, he promised strong, principled American leadership on behalf of what he called a "practical" and "attainable peace"—a peace "based not on a sudden revolution in human nature but on a gradual evolution in human institutions—on a series of concrete actions and effective agreements."

Such wisdom would help guide our ship of state through some of the most perilous moments in human history. With Kennedy at the helm, the Cuban Missile Crisis was resolved peacefully. Under Democratic and Republican Presidents, new agreements were forged—a Non-Proliferation Treaty (NPT) that prohibited nations from acquiring nuclear weapons, while allowing them to access peaceful nuclear energy; the SALT and START Treaties which bound the United States and Soviet Union to cooperation on arms control. Not every conflict was averted, but the world avoided nuclear catastrophe, and we created the time and the space to win the Cold War without firing a shot at the Soviets.

The agreement now reached between the international community and the Islamic Republic of Iran builds on this tradition of strong, principled diplomacy. After two years of negotiations, we have achieved a detailed arrangement that permanently prohibits Iran from obtaining a nuclear weapon. It cuts off all of Iran's pathways to a bomb. It contains the most comprehensive inspection and verification regime ever negotiated to monitor a nuclear program. As was true in previous treaties, it does not resolve all problems; it certainly doesn't resolve all our problems with Iran. It does not ensure a warming between our two countries. But it achieves one of our most critical security objectives. As such, it is a very good deal.

More than a decade later, we still live with the consequences of the decision to invade Iraq. Our troops achieved every mission they were given. But thousands of lives were lost, tens of thousands wounded. That doesn't count the lives lost among Iraqis. Nearly a trillion dollars was spent. Today, Iraq remains gripped by sectarian conflict, and the emergence of al Qaeda in Iraq has now evolved into ISIL. And ironically, the single greatest beneficiary in the region of that war was the Islamic Republic of Iran, which saw its strategic position strengthened by the removal of its long-standing enemy, Saddam Hussein.

I raise this recent history because now more than ever we need clear thinking in our foreign policy. And I raise this history because it bears directly on how we respond to the Iranian nuclear program.

That program has been around for decades, dating back to the Shah's efforts—with U.S. support—in the 1960s and 1970s to develop nuclear power. The theocracy that overthrew the Shah accelerated the program after the Iran–Iraq War in the 1980s, a war in which Saddam Hussein used chemical weapons to brutal effect, and Iran's nuclear program advanced steadily through the 1990s, despite unilateral U.S. sanctions. When the Bush administration took office, Iran had no centrifuges—the machines necessary to produce material for a bomb—that were spinning to enrich uranium. But despite repeated warnings from the US government, by the time I took office, Iran had installed several thousand centrifuges, and showed no inclination to slow—much less halt—its program.

Obama, Barack. "Remarks by the President on the Iran Nuclear Deal," whitehouse.gov, August 2015.

Among U.S. policy makers, there's never been disagreement on the danger posed by an Iranian nuclear bomb. Democrats and Republicans alike have recognized that it would spark an arms race in the world's most unstable region, and turn every crisis into a potential nuclear showdown. It would embolden terrorist groups, like Hezbollah, and pose an unacceptable risk to Israel, which Iranian leaders have repeatedly threatened to destroy. More broadly, it could unravel the global commitment to non-proliferation that the world has done so much to defend.

The question, then, is not whether to prevent Iran from obtaining a nuclear weapon, but how. Even before taking office, I made clear that Iran would not be allowed to acquire a nuclear weapon on my watch, and it's been my policy throughout my presidency to keep all options—including possible military options—on the table to achieve that objective. But I have also made clear my preference for a peaceful, diplomatic resolution of the issue—not just because of the costs of war, but also because a negotiated agreement offered a more effective, verifiable, and durable resolution.

And so, in 2009, we let the Iranians know that a diplomatic path was available. Iran failed to take that path, and our intelligence community exposed the existence of a covert nuclear facility at Fordow.

Now, some have argued that Iran's intransigence showed the futility of negotiations. In fact, it was our very willingness to negotiate that helped America rally the world to our cause, and secured international participation in an unprecedented framework of commercial and financial sanctions. Keep in mind unilateral U.S. sanctions against Iran had been in place for decades, but had failed to pressure Iran to the negotiating table. What made our new approach more effective was our ability to draw upon new U.N. Security Council resolutions, combining strong enforcement with voluntary agreements from nations like China and India, Japan and South Korea to reduce their purchases of Iranian oil as well as the imposition by our European allies of a total oil embargo.

Winning this global buy-in was not easy—I know. I was there. In some cases, our partners lost billions of dollars in trade because of their decision to cooperate. But we were able to convince them that absent a diplomatic resolution, the result could be war, with major disruptions to the global economy, and even greater instability in the Middle East. In other words, it was diplomacy—hard, painstaking diplomacy—not saber rattling, not tough talk that ratcheted up the pressure on Iran.

With the world now unified beside us, Iran's economy contracted severely and remains about 20 percent smaller today than it would have otherwise been. No doubt this hardship played a role in Iran's 2013 elections, when the Iranian people elected a new government that promised to improve the economy through engagement with the world. A window had cracked open. Iran came back to the nuclear talks. And after a series of negotiations, Iran agreed with the international community to an interim deal—a deal that rolled back Iran's stockpile of near 20 percent enriched uranium and froze the progress of its program so that the P5+1—the United States, China, Russia, the United Kingdom, Germany, France, and the European Union—could negotiate a comprehensive deal without the fear that Iran might be stalling for time.

Now, let me pause here just to remind everybody that when the interim deal was announced, critics—the same critics we're hearing from now—called it "a historic mistake." They insisted Iran would ignore its obligations. They warned that sanctions would unravel. They warned that Iran would receive a windfall to support terrorism.

The critics were wrong. The progress of Iran's nuclear program was halted for the first time in a decade. Its stockpile of dangerous materials was reduced. The deployment of its advanced centrifuges was stopped. Inspections did increase. There was no flood of money into Iran, and the architecture of the international sanctions remained in place. In fact, the interim deal worked so well that the same people who criticized it so fiercely now cite it as an excuse not to support the broader accord. Think about that. What was once proclaimed as a historic mistake is now held up as a success and a reason to not sign the comprehensive deal. So keep that in mind when you assess the credibility of the arguments being made against diplomacy today.

Despite the criticism, we moved ahead to negotiate a more lasting, comprehensive deal. Under its terms, Iran is never allowed to build a nuclear weapon. And while Iran, like any party to the NPT, is allowed to access peaceful nuclear energy, the agreement strictly defines the manner in which its nuclear program can proceed, ensuring that all pathways to a bomb are cut off.

Here's how. Under this deal, Iran cannot acquire the plutonium needed for a bomb. The core of its heavy-water reactor at Arak will be pulled out, filled with concrete, and replaced with one that will not produce plutonium for a weapon. The spent fuel from that reactor will be shipped out of the country, and Iran will not build any new heavy-water reactors for at least 15 years.

Iran will also not be able to acquire the enriched uranium that could be used for a bomb. As soon as this deal is implemented, Iran will remove 2/3 of its centrifuges. For the next decade, Iran will not enrich uranium with its more advanced centrifuges. Iran will not enrich uranium at the previously undisclosed Fordow facility, which is buried deep underground, for at least 15 years. Iran will get rid of 98 percent of its stockpile of enriched uranium, which is currently enough for up to 10 nuclear bombs, for the next 15 years. Even after those 15 years have passed, Iran will never have the right to use a peaceful program as cover to pursue a weapon.

And, in fact, this deal shuts off the type of covert path Iran pursued in the past. There will be 24/7 monitoring of Iran's key nuclear facilities. For decades, inspectors will have access to Iran's entire nuclear supply chain—from the uranium mines and mills where they get raw materials, to the centrifuge production facilities where they make machines to enrich it. And understand why this is so important: For Iran to cheat, it has to build a lot more than just one building or a covert facility like Fordow. It would need a secret source for every single aspect of its program. No nation in history has been able to pull off such subterfuge when subjected to such rigorous inspections. And under the terms of the deal, inspectors will have the permanent ability to inspect any suspicious sites in Iran.

And finally, Iran has powerful incentives to keep its commitments. Before getting sanctions relief, Iran has to take significant, concrete steps like removing centrifuges and getting rid of its stockpile. If Iran violates the agreement over the next decade, all of the sanctions can snap back into place. We won't need the support of other members of the U.N. Security Council; America can trigger snapback on our own. On the other hand, if Iran abides by the deal and its economy begins to reintegrate with the world, the incentive to avoid snapback will only grow.

So this deal is not just the best choice among alternatives—this is the strongest non-proliferation agreement ever negotiated. And because this is such a strong deal, every nation in the world that has commented publicly, with the exception of the Israeli government, has expressed support. The United Nations Security Council has unanimously supported it. The majority of arms control and non-proliferation experts support it. Over 100 former ambassadors—who served under Republican and Democratic Presidents—support it. I've had to make a lot of tough calls as President, but whether or not this deal is good for American security is not one of those calls. It's not even close.

So let me address just a few of the arguments that have been made so far in opposition to this deal.

First, there are those who say the inspections are not strong enough because inspectors can't go anywhere in Iran at any time with no notice.

Well, here's the truth: Inspectors will be allowed daily access to Iran's key nuclear sites. If there is a reason for inspecting a suspicious, undeclared site anywhere in Iran, inspectors will get that access, even if Iran objects. This access can be with as little as 24 hours' notice. And while the process for resolving a dispute about access can take up to 24 days, once we've identified a site that raises suspicion, we will be watching it continuously until inspectors get in. And by the way, nuclear material isn't something you hide in the closet. It can leave a trace for years. The bottom line is, if Iran cheats, we can catch them—and we will.

Second, there are those who argue that the deal isn't strong enough because some of the limitations on Iran's civilian nuclear program expire in 15 years. Let me repeat: The prohibition on Iran having a nuclear weapon is permanent. The ban on weapons-related research is permanent. Inspections are permanent. It is true that some of the limitations regarding Iran's peaceful program last only 15 years. But that's how arms control agreements work. The first SALT Treaty with the Soviet Union lasted five years. The first START Treaty lasted 15 years. And in our current situation, if 15 or 20 years from now, Iran tries to build a bomb, this deal ensures that the United States will have better tools to detect it, a stronger basis under international law to respond, and the same options available to stop a weapons program as we have today, including—if necessary—military options. On the other hand, without this deal, the scenarios that critics warn about happening in 15 years could happen six months from now. By killing this deal, Congress would not merely pave Iran's pathway to a bomb, it would accelerate it.

Third, a number of critics say the deal isn't worth it because Iran will get billions of dollars in sanctions relief. Now, let's be clear: The international sanctions were put in place precisely to get Iran to agree to constraints on its program. That's the point of sanctions. Any negotiated agreement with Iran would involve sanctions relief. So an argument against sanctions relief is effectively an argument against any diplomatic resolution of this issue.

It is true that if Iran lives up to its commitments, it will gain access to roughly $56 billion of its own

money—revenue frozen overseas by other countries. But the notion that this will be a game changer, with all this money funneled into Iran's pernicious activities, misses the reality of Iran's current situation. Partly because of our sanctions, the Iranian government has over half a trillion dollars in urgent requirements—from funding pensions and salaries, to paying for crumbling infrastructure. Iran's leaders have raised the expectations of their people that sanctions relief will improve their lives. Even a repressive regime like Iran's cannot completely ignore those expectations. And that's why our best analysts expect the bulk of this revenue to go into spending that improves the economy and benefits the lives of the Iranian people.

Now, this is not to say that sanctions relief will provide no benefit to Iran's military. Let's stipulate that some of that money will flow to activities that we object to. We have no illusions about the Iranian government, or the significance of the Revolutionary Guard and the Quds Force. Iran supports terrorist organizations like Hezbollah. It supports proxy groups that threaten our interests and the interests of our allies—including proxy groups who killed our troops in Iraq. They try to destabilize our Gulf partners. But Iran has been engaged in these activities for decades. They engaged in them before sanctions and while sanctions were in place. In fact, Iran even engaged in these activities in the middle of the Iran–Iraq War—a war that cost them nearly a million lives and hundreds of billions of dollars.

The truth is that Iran has always found a way to fund these efforts, and whatever benefit Iran may claim from sanctions relief pales in comparison to the danger it could pose with a nuclear weapon. Moreover, there's no scenario where sanctions relief turns Iran into the region's dominant power. Iran's defense budget is eight times smaller than the combined budget of our Gulf allies. Their conventional capabilities will never compare with Israel's, and our commitment to Israel's qualitative military edge helps guarantee that. Over the last several years, Iran has had to spend billions of dollars to support its only ally in the Arab World—Bashar al-Assad—even as he's lost control of huge chunks of his country. And Hezbollah has suffered significant blows on the same battlefield. And Iran, like the rest of the region, is being forced to respond to the threat of ISIL in Iraq.

So contrary to the alarmists who claim that Iran is on the brink of taking over the Middle East, or even the world, Iran will remain a regional power with its own set of challenges. The ruling regime is dangerous and it is repressive. We will continue to have sanctions in place on Iran's support for terrorism and violation of human rights.

But if we're serious about confronting Iran's destabilizing activities, it is hard to imagine a worse approach than blocking this deal. Instead, we need to check the behavior that we're concerned about directly: By helping our allies in the region strengthen their own capabilities to counter a cyber-attack or a ballistic missile; by improving the interdiction of weapons' shipments that go to groups like Hezbollah; by training our allies' special forces so that they can more effectively respond to situations like Yemen. All these capabilities will make a difference. We will be in a stronger position to implement them with this deal.

Now, the final criticism—this sort of a catch-all that you may hear—is the notion that there's a better deal to be had. "We should get a better deal"—that's repeated over and over again. "It's a bad deal, need a better deal"—one that relies on vague promises of toughness, and, more recently, the argument that we can apply a broader and indefinite set of sanctions to squeeze the Iranian regime harder.

Sanctions alone are not going to force Iran to completely dismantle all vestiges of its nuclear infrastructure—even those aspects that are consistent with peaceful programs. That oftentimes is what the critics are calling "a better deal." Neither the Iranian government, or the Iranian opposition, or the Iranian people would agree to what they would view as a total surrender of their sovereignty.

Moreover, our closest allies in Europe, or in Asia—much less China or Russia—certainly are not going to agree to enforce existing sanctions for another 5, 10, and 15 years according to the dictates of the U.S. Congress. Because their willingness to support sanctions in the first place was based on Iran ending its pursuit of nuclear weapons. It was not based on the belief that Iran cannot have peaceful nuclear power. And it certainly wasn't based on a desire for regime change in Iran.

As a result, those who say we can just walk away from this deal and maintain sanctions are selling a fantasy. In order to even try to do that, we would have to sanction, for example, some of the world's largest banks. We'd have to cut off countries like China from the American financial system. And since they happen to be major purchasers of or our debt, such actions could trigger severe disruptions in our own economy and, by the way, raise questions internationally about the dollar's role as the world's reserve currency.

That's part of the reason why many of the previous unilateral sanctions were waived. What's more likely to happen, should Congress reject this deal, is that Iran would end up with some form of sanctions relief without having to accept any of the constraints or inspections

required by this deal. So in that sense, the critics are right: Walk away from this agreement and you will get a better deal—for Iran.

Now, because more sanctions won't produce the results that the critics want, we have to be honest. Congressional rejection of this deal leaves any U.S. administration that is absolutely committed to preventing Iran from getting a nuclear weapon with one option—another war in the Middle East. I say this not to be provocative. I am stating a fact. Without this deal, Iran will be in a position—however tough our rhetoric may be—to steadily advance its capabilities. Its breakout time, which is already fairly small, could shrink to near zero. Does anyone really doubt that the same voices now raised against this deal will be demanding that whoever is President bomb those nuclear facilities?

And as someone who does firmly believes that Iran must not get a nuclear weapon, and who has wrestled with this issue since the beginning of my presidency, I can tell you that alternatives to military action will have been exhausted once we reject a hard-won diplomatic solution that the world almost unanimously supports.

So let's not mince words. The choice we face is ultimately between diplomacy or some form of war—maybe not tomorrow, maybe not three months from now, but soon. And here's the irony. As I said before, military action would be far less effective than this deal in preventing Iran from obtaining a nuclear weapon. That's not just my supposition. Every estimate, including those from Israeli analysts, suggest military action would only set back Iran's program by a few years at best, which is a fraction of the limitations imposed by this deal. It would likely guarantee that inspectors are kicked out of Iran. It is probable that it would drive Iran's program deeper underground. It would certainly destroy the international unity that we've spent so many years building.

Now, there are some opponents—I have to give them credit; there are opponents of this deal who accept the choice of war. In fact, they argue that surgical strikes against Iran's facilities will be quick and painless. But if we've learned anything from the last decade, it's that wars in general and wars in the Middle East in particular are anything but simple. The only certainty in war is human suffering, uncertain costs, and unintended consequences. We can also be sure that the Americans who bear the heaviest burden are the less than 1 percent of us, the outstanding men and women who serve in uniform, and not those of us who send them to war.

But how can we in good conscience justify war before we've tested a diplomatic agreement that achieves our objectives; that has been agreed to by Iran; that is supported by the rest of the world; and that preserves our options if the deal falls short? How could we justify that to our troops? How could we justify that to the world or to future generations?

In the end, that should be a lesson that we've learned from over a decade of war. On the front end, ask tough questions. Subject our own assumptions to evidence and analysis. Resist the conventional wisdom and the drumbeat of war. Worry less about being labeled weak; worry more about getting it right.

I recognize that resorting to force may be tempting in the face of the rhetoric and behavior that emanates from parts of Iran. It is offensive. It is incendiary. We do take it seriously. But superpowers should not act impulsively in response to taunts, or even provocations that can be addressed short of war. Just because Iranian hardliners chant "Death to America" does not mean that that's what all Iranians believe.

In fact, it's those hardliners who are most comfortable with the status quo. It's those hardliners chanting "Death to America" who have been most opposed to the deal.

The majority of the Iranian people have powerful incentives to urge their government to move in a different, less provocative direction—incentives that are strengthened by this deal. We should offer them that chance. We should give them that opportunity. It's not guaranteed to succeed. But if they take it, that would be good for Iran, it would be good for the United States. It would be good for a region that has known too much conflict. It would be good for the world. And if Iran does not move in that direction, if Iran violates this deal, we will have ample ability to respond.

The agreements pursued by Kennedy and Reagan with the Soviet Union, those agreements, those treaties involved America accepting significant constraints on our arsenal. As such, they were riskier. This agreement involves no such constraints. The defense budget of the United States is more than $600 billion. To repeat, Iran's is about $15 billion. Our military remains the ultimate backstop to any security agreement that we make. I have stated that Iran will never be allowed to obtain a nuclear weapon. I have done what is necessary to make sure our military options are real. And I have no doubt that any President who follows me will take the same position.

So let me sum up here. When we carefully examine the arguments against this deal, none of them stand up to scrutiny.

On the other hand, I do think it's important to acknowledge another, more understandable motivation

behind the opposition to this deal, or at least skepticism to this deal, and that is a sincere affinity for our friend and ally, Israel.

No one can blame Israelis for having a deep skepticism about any dealings with a government like Iran's—which includes leaders who have denied the Holocaust, embrace an ideology of anti-Semitism, facilitate the flow of rockets that are arrayed on Israel's borders, are pointed at Tel Aviv. In such a dangerous neighborhood, Israel has to be vigilant, and it rightly insists that it cannot depend on any other country—even its great friend the United States—for its own security. So we have to take seriously concerns in Israel.

But the fact is, partly due to American military and intelligence assistance, which my administration has provided at unprecedented levels, Israel can defend itself against any conventional danger—whether from Iran directly or from its proxies. On the other hand, a nuclear-armed Iran changes that equation.

And that's why this deal ultimately must be judged by what it achieves on the central goal of preventing Iran from obtaining a nuclear weapon. This deal does exactly that. Already we've held talks with Israel on concluding another 10-year plan for U.S. security assistance to Israel. We can enhance support for areas like missile defense, information sharing, and interdiction—all to help meet Israel's pressing security needs, and to provide a hedge against any additional activities that Iran may engage in as a consequence of sanctions relief.

But I have also listened to the Israeli security establishment, which warned of the danger posed by a nuclear-armed Iran for decades. In fact, they helped develop many of the ideas that ultimately led to this deal.

So to friends of Israel, and to the Israeli people, I say this: A nuclear-armed Iran is far more dangerous to Israel, to America, and to the world than an Iran that benefits from sanctions relief.

"Peace is not the absence of conflict," President Reagan once said. It is "the ability to cope with conflict by peaceful means." President Kennedy warned Americans, "not to see conflict as inevitable, accommodation as impossible, and communication as nothing more than the exchange of threats." It is time to apply such wisdom. The deal before us doesn't bet on Iran changing, it doesn't require trust; it verifies and requires Iran to forsake a nuclear weapon, just as we struck agreements with the Soviet Union at a time when they were threatening our allies, arming proxies against us, proclaiming their commitment to destroy our way of life, and had nuclear weapons pointed at all of our major cities—a genuine existential threat.

In this world, the United States of America remains the most powerful nation on Earth, and I believe that we will remain such for decades to come. But we are one nation among many. If Congress kills this deal, we will lose more than just constraints on Iran's nuclear program, or the sanctions we have painstakingly built. We will have lost something more precious: America's credibility as a leader of diplomacy and America's credibility as the anchor of the international system.

John F. Kennedy cautioned here, more than 50 years ago, at this university, that "the pursuit of peace is not as dramatic as the pursuit of war." But it's so very important. It is surely the pursuit of peace that is most needed in this world so full of strife.

Barack Hussein Obama was the 44th president of the United States who served from 2009 to 2017.



Dick Cheney

NO

Remarks by the Former Vice President on the Nuclear Deal with Iran and the Implications for U.S. Security

I come before you today not as a candidate for any office. My years in elective politics are over. I come before you as a citizen, a citizen who has also spent the better part of 40 years in public service—as White House chief of staff, member of Congress, secretary of defense, and vice president—focused for much of that time on the national security issues facing our nation.

So much is in the balance, for our own security and that of our friends. It is not a moment for appeals to party loyalty . . . for whip calls . . . or returning favors . . . for lining up against a president for its own sake, or lining up with a president for its own sake. I've come in that spirit today, setting aside for now any broader disagreements with the Obama administration . . . any stake in past debates . . . any concern of electoral politics.

Approval of this agreement will not prevent a nuclear Iran. Along with a pathway to a nuclear arsenal, President Obama's agreement will provide Iran with funds and weapons the regime will use for the support of terror, the dominance of the Middle East, and the furtherance of Tehran's efforts to destroy Israel, threaten Arab regimes, and prevent the United States from defending our allies and our interests in the Persian Gulf and beyond. With the removal of restrictions on Iran's ballistic missile program, this agreement will give Iran the means to launch a nuclear attack on the U.S. homeland.

A week before the deal was announced, President Obama's own secretary of defense declared this shouldn't happen. "The 'I' in ICBM," Ashton Carter noted, "stands for 'intercontinental,' which means having the capability to fly from Iran to the United States, and we don't want that."

I know of no nation in history that has agreed to guarantee that the means of its own destruction will be in the hands of another nation, particularly one that is hostile. What President Obama is asking the United States Congress to do is unique—historically and dangerously unique. The results may be catastrophic.

The claims made by President Obama, Secretary Kerry, and other members of the Obama Administration about this agreement have been robust. This deal will, they have said, and I quote "prevent Iran from obtaining a nuclear weapon," "cut off all Iran's pathways to a bomb, including the covert pathway," provide us with a "certainty we will know what they are doing" in the nuclear arena, "prevent nuclear proliferation," encourage stability across the Middle East, and "prevent war." These assertions are simply false.

Take the president's assurance that the agreement will "prevent Iran from obtaining a nuclear weapon." In a more candid moment a few months ago, he admitted that under this deal, the Iranians in 13 years or so will have—and I quote, "advanced centrifuges that enrich uranium fairly rapidly, and at that point the breakout times would have shrunk down to zero." The president's own words make clear that this agreement does not keep Iran from nuclear capability. Quite the opposite, it guarantees that in less time than has passed since 9/11, a regime with "Death to America" as a pillar of its national policy, will have the ability and material to produce an arsenal of nuclear weapons. And at that point what is to prevent them from doing so? Well, President Obama tells us, they promise they won't. We are asked to rely on the word of a country that has cheated on every nuclear agreement to which they have been a party that once they have the means in place to become a nuclear power, they won't do it.

President Obama came into office determined to engage the Iranians "without preconditions." Beginning with his inaugural address offering them an open hand if they unclenched their fist, through his letters to the Iranian supreme leader, through the secret negotiations established by Secretary Clinton with the Iranians in Oman in 2011, President Obama's guiding principle has

Cheney, Dick. "Remarks by the Former Vice-President on the Nuclear Deal with Iran and the Implications for U.S. Security," Copyright ©2015 by Richard B. Cheney. Used with permission.

been convincing the Iranians they can trust us. If we walk away from this deal, Secretary Kerry recently claimed, the regime in Tehran will learn, "You can't trust the West." A negotiation based on the premise that the United States had to gain the trust of the world's worst state sponsor of terror was never going to end well.

In the secret talks, before the actual negotiations even began, the U.S. side appears to have made three key concessions. They agreed to drop the long-standing demand of the international community that Iran halt uranium enrichment. They agreed to provide immediate sanctions relief, and they agreed to pay the Iranians to negotiate by releasing $12 billion in frozen Iranian assets. These were just the concessions made prior to the negotiations. So much for negotiations "without preconditions." There were, in fact, preconditions—they just weren't ours.

The cave on enrichment wasn't just any concession. Under the Nuclear Non-Proliferation Treaty (NPT), signed by over 190 nations, including Iran, countries with peaceful nuclear programs do not have a right to enrich. Agreeing to the demand that the United States recognize such a right for Iran guts the fundamental principle at the heart of the NPT and makes it much more difficult for the international community to deny such a right to any other state. It also, in one fell swoop, neutered six United Nations Security Council resolutions passed to stop Iran's nuclear program, including its uranium enrichment activities. President Obama, who says he is committed to the international arms control regime, to the United Nations, and to nuclear non-proliferation, is now urging that the United States accept an agreement that will undercut the most effective multilateral arms control treaty in history and negate the previous demands of the international community expressed in those UN Security Council resolutions.

The president says this deal will "stop the spread of nuclear weapons in this region." In fact, by legitimizing the Iranian enrichment program for the first time ever, the deal will likely accelerate nuclear proliferation as other nations demand the same right. America's friends and allies in the Middle East, including the Gulf Arab states, know that their own security hangs in the balance as the United States enables Iran to acquire nuclear weapons. They have watched the Iranians get the better of us in these negotiations.

They are more likely in this environment, and in the aftermath of this deal, to determine that their own security requires that they possess their own nuclear weapons. The president says this deal will ensure "the international community will be able to verify that [Iran] will not develop a nuclear weapon." He has said the inspections regime is historic and that the agreement cuts off "every one of Iran's pathways to a bomb," including, magically, the covert pathway. Let's look at the facts. After we were assured repeatedly by members of his administration that this agreement would include "anytime/anywhere" inspections, President Obama has accepted a deal that gives the Iranians anywhere from 24 days to many months to delay inspections at suspicious sites. Inspections at military sites, like Parchin, where the Iranians have concealed suspect elements of their nuclear weapons program in the past, are not covered in the agreement. The American people have been told not to concern ourselves with this. There are secret side agreements between Iran and the International Atomic Energy Agency (IAEA)—which our elected representatives in Congress cannot see—that reportedly cover inspections at these sites. It's not clear any Obama administration officials have seen the final text of these side deals either. The Iranians continue to insist, and I quote, "there will be no access to any military sites," and in at least some crucial cases relating to past activities, the regime will be inspecting itself. That is historic—historically misguided.

The value of this agreement—and the veracity of the president's claims about it—rest on the inspections regime contained within it. Inspectors need to know what Iran has done in the past so they have a baseline against which to assess whether that country is cheating in the future. Secretary Kerry seemed to understand this in April 2015 when he said the Iranians would have to disclose past activity. "They have to do it," he said. "It will be done. If there's going to be a deal, it will be done." Two months later, in July of this year, Secretary Kerry's position changed dramatically, "We're not fixated on Iran specifically accounting for what they did at one time or another," he said, because, and I quote, "We have absolute knowledge" with respect to Iran's past activities. If you're looking for a quick summary of Secretary Kerry's position on the need for Iran to completely disclose all its past nuclear activity, you could say he was for it before he was against it.

General Mike Hayden, former director of the CIA and the NSA, has said he knows of no American intelligence official who would claim, as Secretary Kerry does, that "we have complete knowledge" of what Iran has done in the past. Detecting elements of a country's nuclear program and predicting how close it is to breakout is a notoriously difficult intelligence task. It is one that we have failed at time and time again. The United States failed to predict the first Soviet atomic test in 1949, the first Chinese test in 1964, the first Indian test in 1974, the first Pakistani test in 1998, and the first North Korean test in 2006.

All of this should raise serious concerns about the claims President Obama has made that the agreement

guarantees a breakout time of at least a year. Accurately assessing how far the Iranians are from obtaining a nuclear weapon would require a full and complete disclosure of their past activity. Inspectors need a baseline. If we don't know how much progress Iran has made toward obtaining a nuclear weapon, we can't accurately assess how much farther they need to go or how long it will take them. The Iranians were unwilling to make such a disclosure—which tells us something in and of itself—and President Obama and Secretary Kerry dropped this essential requirement.

Under President Obama's agreement there will be no anywhere/anytime inspections and no inspections of military sites—those are covered in the secret deals we cannot see. There will be no access to the regime's nuclear scientists, no full disclosure of past activity, no full access to documents pertaining to Iran's nuclear program, and Iran will be doing some of the inspections themselves. We're essentially leaving it up to Iran to let us know when and where they might have engaged in illicit nuclear weapons activity.

The president also expressed firm resolve on the matter of sanctions. They would be lifted when, and only when, the Iranians had first met their obligations. It worked out a little differently of course. They got that $12 billion and other sanctions relief right away. Soon, the regime will be a player again in the oil and financial markets. And, finally, something on the order of $150 billion will be coming their way in the assets released under the deal.

We were told, and are still being told, that at the first sign of cheating, sanctions will suddenly "snapback" on the regime. In reality, the deal makes it very difficult to reimpose sanctions, or to impose any new ones. It enables Iran to walk away from the agreement completely if any attempt is made to sanction them anew. Discoveries of violations by the Iranians would be followed by long international debates over every last technical point. And who doubts what the refrain would be from the Obama administration when confronted with obvious violations? We would hear that it's better to overlook the offense than to risk losing the agreement. And that's how we came to this point in the first place. It is the same weak, acquiescent, and ultimately dangerous mindset that led us so far down the wrong road, to a deal so completely tailored to the demands of the offender.

President Obama has agreed to Iranian demands to remove restrictions on key elements of the infrastructure Tehran uses to support global terrorism, including the IRGC Quds Force. He agreed to lift restrictions on Iran's ICBM program and on its ability to import and export conventional weapons. If this agreement is approved, these concessions will further Iran's efforts to achieve one of its main objectives in the Middle East—to drive the United States out. Former undersecretary of defense Ambassador Eric Edelman recently testified that under the Joint Comprehensive Plan of Action (JCPOA), quote, "The United States will not be able to rely, as it has for the past 30 years, on an assumption that it will have unimpeded access and control in all the domains of warfare in the Persian Gulf." A recent study cochaired by former Marine commandant General James Conway and former Deputy Commander of the United States European Command General Charles Wald put it this way: The JCPOA will enable Iran to improve its unconventional military capabilities to challenge the strategic position of the United States and its allies in the Middle East. Iran will be able to revitalize its defense industrial base in the short term even if it devotes only a fraction of the $100 billion or more that will be unfrozen as part of the agreement—more than the government's entire budget for the current fiscal year—to military spending. Over the medium term, the removal of economic sanctions and the United Nations arms embargo will allow the regime to acquire other advanced technologies and weapons from abroad. And, once sanctions against its ballistic missile program sunset, Iran could more easily develop weapons capable of reaching targets in the Middle East and beyond—including Europe and the United States.

Contrary to claims made by the President and Secretary of State, the United States will be in a far worse position to defend our interests and prevent a nuclear armed Iran when the Obama agreement sunsets than we are today.

In addition to facilitating Iranian access to advanced weapons systems, aiding the development of its ICBM program, providing a cash windfall and tremendous economic benefits to the regime in Tehran, the Obama Iran agreement lifts sanctions on the Iranian Revolutionary Guard Corps, the IRGC-Quds Force, and the Quds Force Commander, Qassem Suleimanyi. Under Suleimanyi's command, the Quds Force has been responsible for supporting terror, fomenting violence, advancing Iran's goals of regional dominance, and the killing of American service members in Iraq and Afghanistan. By lifting the sanctions on these entities—and on Suleimanyi himself—the Obama Iran deal aids the efforts of America's enemies.

Imagine for a moment a world in which this deal has been implemented. Iranian-backed forces in Yemen will receive additional aid and support as they work to ensure that Yemen remains a failed state, a theater in which al Qaeda in the Arabian Peninsula has effectively operated, and a threat to Saudi Arabia's heavily Shia Eastern

Province. Iraq will see an influx of weapons and resources for Iran's proxies, leading to increased violence and bloodshed as the Sunni–Shiite conflict deepens and ISIS is able to recruit more Sunnis to their cause. Conflict will intensify in Syria, as Iran floods its most important Arab foothold with weapons and fighters. The European refugee crisis will likely grow as thousands more flee the rising terror and chaos. Hezbollah, Iran's main proxy, will also benefit in its operations across the Middle East, and particularly in its ongoing attacks on Israel. In the meantime, the removal of restrictions on the IRGC Quds Force will give that group the ability to move freely throughout the Middle East as they oversee this brave new world.

It isn't just Hezbollah, the Houthis, and Bashar Asad who will benefit from the lifting of restrictions on Iran. Iran's ties to terrorist groups are extensive. That's why Republican and Democratic administrations alike have identified them as the world's leading state sponsor of terror. In 2011, President Obama's Treasury Department designated six al Qaeda terrorists for their involvement in a network that moves money and terrorists across the Middle East, including into Iraq and Afghanistan. That network was headquartered in Iran. In the words of David Cohen, then undersecretary of the Treasury and today Deputy Director of the CIA, "There is an agreement between the Iranian government and al Qaeda to allow this network to operate. There is no dispute in the intelligence community on this." Former director of the Defense Intelligence Agency General Michael Flynn has said that documents captured with Osama bin Laden included, "letters about Iran's role, influence and acknowledgment of enabling al Qaeda operatives to pass through Iran as long as al Qaeda did its dirty work against the Americans in Iraq and Afghanistan."

Since that initial designation, President Obama's own Treasury and State Departments have repeatedly pointed to Iran's agreement with al Qaeda noting that Iran is, quote, "a critical transit point for funding to support al-Qa'ida's activities in Afghanistan and Pakistan" and home to a, quote, "core pipeline through which al-Qa'ida moves money, facilitators and operatives from across the Middle East to South Asia." This pipeline exists, according to the Obama Treasury Department, as part of a formerly "secret deal" between Iran and al Qaeda. As recently as last year, while the nuclear talks were underway, Treasury said that Iran had let Yasin al Suri (identified as the leader of the network in July 2011) out of his temporary detention to resume control of the network. The President has said he understands that Iran's support for terror continues. He has said that should not stop Congress from approving his nuclear deal. He seems willfully blind to the fact that the benefits conveyed to Iran in this agreement—the money, the conventional weapons, and the sanctions relief—facilitate and enable the Iranian regime's support for terror and terrorists groups, including those who have attacked the United States and are today threatening our security, our allies, and our interests.

The U.S. Congress stood ready to approve a strong, serious agreement to prevent the threat of a nuclear-armed Iran. Instead, it has been handed an intricately crafted capitulation. And though President Obama has spoken of this deal as part of his legacy—the consequences are "on me" as he put it—even that is beside the point. What happens after the deal is not "on" him? It is on all of us. This deal gives Tehran the means to launch a nuclear attack on the U.S. homeland. It threatens the security of our Arab allies across the Middle East. It threatens the security of Europe. And—it should not be forgotten—that this deal has vast implications for the future security of the Jewish people. Charles Krauthammer has written that it took Nazi Germany 7 years to kill 6 million Jews. It would take a nuclear-armed Iran one day.

Every American president for well over a half century has been committed to nuclear non-proliferation in the Middle East, every one of them—until now. With this agreement, the current administration is saying to Iran, in effect: you can enrich uranium, you can have ICBMs, and by the way you can also get back full swing into the arms trade. Oh, yes, and here's a $150 billion, which we implore you—please—not to share with your terrorist friends.

To build a deliverable nuclear weapon is a mercifully difficult enterprise. But when the world wakes up one day to the news that Islamic radicals in Tehran have done it, all the pretenses will fall away, and new lines of force come into view, with all further terms to be worked out under the threat of the first use of nuclear weapons since Nagasaki.

When a former ranking Democrat on Senate Foreign Relations says that he fears that Iran will gain such a weapon and that he doesn't want his name on it, his colleagues should pay very close attention. That man is dealing in reality.

Now, as at other fateful turns in our history, the alternative to nightmarish scenarios that we all wish to avoid is not to make concession after concession after concession. The moment President Obama conceded that the Iranian regime had any right to enrich uranium, he lost the possibility of securing a good deal. The moment he let up on sanctions—which were constricting the regime's power and influence, and would only have gotten worse for them—pressure was lifted from the mullahs in Tehran

and they no longer needed a deal more than we did. And as soon as President Obama went on Israeli TV and effectively ruled out the option of force, the Iranians knew they'd won.

A far better deal is still possible, and it begins with reasserting our original objective on each of these matters: Iran must halt its enrichment and reprocessing activities. It must halt its ballistic missile activities. It must provide a full and complete accounting of all its past nuclear activities. It must allow complete go anywhere/anytime access, including at military sites. There should be no sanctions relief until Iran has fulfilled these obligations. If Iran chooses not to do so, they must understand that the United States stands ready to take military action to ensure they do not acquire a nuclear weapon.

Preventing the proliferation of nuclear weapons is one of the most difficult geo-strategic challenges we face, but there are lessons from the past on which we can draw. For decades, rogue regimes and terrorist groups have been attempting to acquire nuclear technology and weapons. In 1981, the Israelis launched an air attack against the Iraqi nuclear facility at Osirik, setting back Saddam Hussein's nuclear program. By 1991, he had reconstituted large portions of it which the United States destroyed with our military action in Desert Storm. In 2003, when we liberated Iraq, Libyan leader Muammar Qaddafi contacted us—days after U.S. forces captured Saddam Hussein—and told us he wanted to turn over his nuclear program. He had watched the fate we delivered to Saddam and he didn't want to be next. Qaddafi's nuclear materials are now in the United States. Qaddafi's decision had two long-lasting and important effects. First, because he turned over his materials, they did not fall into the hands of the militant Islamist terrorists who today control territory inside Libya. Second, his cooperation enabled us to unravel the black market nuclear proliferation network of Pakistani scientist A.Q. Khan who had sold nuclear equipment and technology to rogue regimes around the world. We put Khan and his network out of business. There is also evidence that the Iranians halted a portion of their program in 2003 in the aftermath of the U.S. invasion of Iraq—hoping to protect themselves from suffering Saddam's fate.

In 2007, we learned that the North Koreans were building a nuclear reactor in Syria's Eastern Desert—territory now governed by ISIS. When the Israelis brought this information to us, President Bush told them he would not take military action. The Israelis decided to take action on their own and destroyed the reactor.

In each of these cases, it was either military action or the credible threat of military action that persuaded these rogue regimes to abandon their weapons programs. Iran will not be convinced to abandon its program peacefully unless it knows it will face military action if it refuses to do so.

That's how a serious negotiation plays out. That's how a self-respecting power, with everything in the balance, asserts its vital interests. Insisting on key non-negotiable points and maintaining a credible threat of military force are the indispensable elements of serious diplomacy over the Iranian nuclear program. That is what the administration should have done all along.

Instead they have presented us with a deal that strengthens our adversaries, threatens our allies and puts our own security at risk. They have placed on the table for congressional review a deal that provides weapons and funds to a regime that has pledged to destroy Israel and maintains "Death to America" as a central pillar of its policies. Arming and funding Iran while simultaneously providing them a pathway to a nuclear arsenal is not an act of peace. It's not, as President Obama claims, the only alternative to war. It is madness.

Richard Bruce Cheney was the 46th vice president of the United States who served from 2001 to 2009 in the administration of George W. Bush.



EXPLORING THE ISSUE

Is the Nuclear Deal with Iran Good for International Security?

Critical Thinking and Reflection

1. Do you believe Non-Nuclear States in the NPT have the right to enrich uranium for peaceful purposes?
2. Do you think the Iranians will be free to build a nuclear weapon once the JCPOA expires?
3. Do you think that relieving sanctions on the Iranians as part of the JCPOA has emboldened them to further support terrorist groups like Hezbollah and Hamas?
4. Do you think it is hypocritical of the Nuclear States of the NPT to insist that states like Iran cannot have nuclear weapons when they do not appear to be disarming themselves?

Is There Common Ground?

Though President Obama and Vice President Cheney remain far apart in their overall appreciation for the JCPOA, there does appear to be some common ground between them. Perhaps the most obvious shared position is that they both agree that it is best to prevent the further proliferation of nuclear weapons. They also appear to agree that the NPT and its inspection regime are the best means to achieve that, although Cheney obviously believes the JCPOA inspection regime is not intrusive enough.

The JCPOA was passed by the US Congress in September 2015 and came into effect the following month. Since then, the IAEA has continued to report that Iran is meeting its obligations under the agreement and the Trump Administration has informed Congress twice that Iran is in compliance with the agreement (as it is required to do by law every three months). Despite all of this, President Trump still strongly opposes the agreement and thus its future remains highly uncertain.

Additional Resources

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CATO Institute Podcast: A Fraught Case for Exiting the Iranian Nuclear Deal

https://www.cato.org/multimedia/cato-daily-podcast/fraught-case-exiting-iran-nuclear-deal

International Atomic Energy Agency

https://www.iaea.org/

The Historic Deal That Will Prevent Iran from Obtaining a Nuclear Weapon

https://obamawhitehouse.archives.gov/node/328996

Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Should the U.S. Engage with North Korea over its Nuclear Weapons Program?

YES: Leon V. Sigal, from "A Deal-Maker's Chance: Why Trump Should Engage with North Korea," *Global Asia* (2017)

NO: Bruce Klingner, from "Testimony during Hearings on 'Pressuring North Korea: Evaluating Options'," *U.S. House of Representatives Committee on Foreign Affairs* (2017)

Learning Outcomes

After reading this issue, you will be able to:

- Describe the commitments made by states in the Nuclear Non-Proliferation Treaty.
- Describe the development of the North Korean nuclear weapons program.
- Explain the failure of international negotiations over the North Korean nuclear weapons program.

ISSUE SUMMARY

YES: Leon V. Sigal, the director of the Northeast Asia Cooperative Security Project at the Social Science Research Council, encourages the Trump Administration to engage with the North Korean regime over its nuclear program through negotiations to achieve a comprehensive security agreement.

NO: Bruce Klingner, a senior research fellow for Northeast Asia at the Heritage Foundation, warns against premature diplomatic overtures toward North Korea, believing they are doomed to failure. Instead, in his testimony, he advises the U.S. government to impose comprehensive economic and diplomatic sanctions on the regime first, in order to force it to the negotiating table.

As explained in the introduction to the previous issue, the principal international treaty dealing with the proliferation of nuclear weapons is the Nuclear Non-Proliferation Treaty (NPT). The NPT came into force in 1970 and contains three core commitments. Firstly, the states that had tested nuclear devices before January 1, 1967—herein referred to as the Nuclear 5 (China, Russia, France, the United States and United Kingdom)—all committed to negotiate in "good faith" toward "complete nuclear disarmament." Secondly, all other states that joined the NPT did so as Non-Nuclear States and committed never to acquire nuclear weapons. Thirdly, the Nuclear 5 promised to help the Non-Nuclear States benefit from the peaceful use of nuclear energy.

The International Atomic Energy Agency (IAEA), an independent international organization that had already been established in 1957 to help states enjoy the peaceful use of nuclear energy, was given the additional task of monitoring the Non-Nuclear States to ensure none of them built clandestine nuclear weapons programs. The Non-Nuclear States were required to sign "safeguard" agreements with the IAEA in which they agreed to provide it with information concerning any nuclear energy programs they possessed and to allow IAEA inspections of any declared nuclear facilities.

The NPT has not been entirely successful in preventing nuclear proliferation. Firstly, despite being one of the international community's most universal treaties, there are still a small number of states that have never joined and have thus been relatively free to build their own nuclear weapons programs. These include India, Pakistan, and Israel. Only one state has ever left the NPT to pursue a nuclear weapons program and that state is the focus of this issue, the Democratic People's Republic of Korea or North Korea. In fact, it was because of its failure to catch clandestine nuclear programs in Iraq and North Korea in the 1980s and early 1990s, that the IAEA developed its Additional Protocol agreement, which requires the Non-Nuclear States to provide much more detailed information; allow for "snap" inspections of any suspected nuclear facilities; and environmental testing; all to better detect the production of fissile material.

The first major development in the North Korean case occurred in early 1993, when North Korea announced its intention to withdraw from the NPT. By the following year, negotiations had managed to persuade them to sign an "Agreed Framework" that committed them to stay in the NPT; to suspend work on the nuclear reactors that were already under construction; and to dismantle its current nuclear energy program over 10 years. In return, the United States and its allies (principally South Korea and Japan) pledged to spend approximately $4 billion to build two new light-water nuclear reactors in North Korea. These reactors were less of a proliferation risk, as they produce less fissile material than the type of heavy-water reactor the North had already built in the city of Yongbyon.

In 2002, in the midst of mutual recriminations over the failure to implement the Agreed Framework, North Korea expelled all of the IAEA inspectors on its territory and dismantled their monitoring equipment. It also, once again, renounced its membership of the NPT and moved to restart its reactor in Yongbyon.

The George W. Bush administration initially reacted with threats. However, it was forced to backtrack by the harsh reality that continues to plague U.S. strategy toward North Korea's nuclear program, even today: that the North–South Korean border is one of the most heavily militarized in the world. The North Korean army has deployed tens of thousands of conventional artillery pieces at the border and today has over 1000 ballistic missiles pointed toward South Korea and its capital, Seoul, now a city of 10 million people (20 million in wider metropolitan area) the edges of which are located less than 20 miles from the narrow Demilitarized Zone that separates both countries. There are also fears the North may possess chemical weapons. In 2002, there were 37,000 U.S. troops stationed in South Korea, all of whom were at risk. Today that number is smaller, but is still nearly 24,000, with another 40,000 U.S. troops stationed in Japan.

With this reality in mind, the United States, Russia, China, South Korea, and Japan launched the first six-party talks with North Korea in 2003. Over the next six years there was to be six rounds of talks, some of which ended with significant developments. For example, a "Joint Statement" was released in September 2005 after the fourth round of talks, committing the parties to work toward the complete denuclearization of the Koran peninsula. The Yongbyon reactor was also suspended for two years between 2007 and 2009, and the United States removed North Korea from its list of state sponsors of terrorism in 2008.

Nevertheless, the North Korean nuclear and ballistic missile program continued to progress throughout this time. In February 2005, North Korea announced it had developed nuclear weapons for "self-defense." It tested its first nuclear device in October 2006, after which the UN Security Council passed its first round of sanctions calling for an end to its nuclear testing and ballistic missile development, as well as its return to the NPT. Another UN Security Council sanctions resolution was passed after a second nuclear test in May 2009. North Korea announced it was leaving the six-party talks.

Following the rise to power of Kim Jong-un (who inherited the position of Supreme Leader in late 2011 after his father passed away), the United States and North Korea announced a "Leap Day Deal" on February 29, 2012, in which the United States agreed to provide substantial food aid in return for North Korea agreeing to a moratorium on uranium enrichment and missile testing. They also promised to allow the return of IAEA inspectors to Yongbyon and committed to return to the six-party talks. However, the deal was effectively killed by a couple of missile tests that were conducted within a few weeks of its announcement.

Since that time, North Korea has tested another four nuclear devices, the latest and largest of which was exploded on September 3, 2017. North Korea claims it is a miniaturized hydrogen bomb that can fit atop an intercontinental ballistic missile. It has also sped up its ballistic development, conducting numerous tests throughout 2017, although experts believe it still only has the capability to hit inside Asia. Following the nuclear test, the UN Security Council adopted its ninth round of sanctions on September 11; this time banning North Korea's textile exports and placing a ceiling on its import of crude oil.

The United States and South Korea have also deployed anti-ballistic missile systems, including a Terminal High-Altitude Area Defense (THAAD) system and continue to conduct large joint military exercises every year, including in August 2017.

Despite President Trump's more bellicose pronouncements, the rate of nuclear and missile tests has only increased during his first year in office. A couple of factors appear to be at play. Firstly, North Korea's fear of a U.S. attack is so great that the regime appears bent on possessing a nuclear deterrent as a final guarantor of its survival. Secondly, the relatively young and inexperienced new leader, Kim Jong-un, is obviously asserting his personal power and seeking to establish his credibility as a leader and defender of the nation. This is also the reason Kim Jong-un may have ordered the assassination of his elder half-brother, Kim Jong-nam, by chemical nerve agent, while he was traveling through Kuala Lumpur airport in February 2017.

So, should the United States still seek to engage with North Korea over its nuclear weapons program? Leon V. Sigal argues in his article that President Trump has an opportunity to reengage with the North Korean regime, but only if Trump ends his bellicose threats and avoids the temptation to seek further sanctions. Bruce Klinger, in his testimony to the U.S. House of Representatives Committee on Foreign Affairs in March 2017, argues further engagement is futile as long as the North Korean regime rejects the core premise of such diplomacy—the abandonment of its nuclear program. Instead, he suggests the United States should lead an international charge to tighten the economic and diplomatic noose on North Korea, until the regime fears its own collapse. Only then, he believes, will they place their nuclear weapons on the bargaining table.



YES

Leon V. Sigal

A Deal-Maker's Chance: Why Trump Should Engage with North Korea

US President Donald Trump was tiptoeing toward talks with North Korea until the brazen assassination on February 13 in Kuala Lumpur of Kim Jong-un's half-brother, Kim Jong-nam. That turn of events relieved the beleaguered government of South Korean President Park Geun-hye, which assumed the assassins had killed the talks along with Kim. But Park was impeached in December and removed from office on March 10, and Trump may yet hold negotiations to probe Pyongyang's willingness to halt its nuclear and missile programs, as that is the most realistic way to keep allied security from deteriorating further.

Under Park, Seoul had sought to focus on the evil and fragile nature of the Kim dynasty and compel regime change. In a crescendo of disinformation, it mischaracterized the spate of defections and purges of high officials as evidence of impending collapse. It trotted out a recent defector from North Korea's London embassy to echo its dubious claims. It inflated Pyongyang's nuclear and missile advances, implying it was too late to suspend the programs.

The source of Park's angst was Trump's expressed interest in talks with Pyongyang. Seoul had paid lip service to the Obama administration's "strategic patience" stance: pressure without negotiations and insistence that North Korea commit to denuclearization first. Pyongyang was open to talks, but not on US terms. Trump campaigned on a clean break from Obama.

Trump the Deal-maker

Candidate Trump disparaged Kim Jong-un as a "total nut job" and a "madman playing around with nukes." Yet he also expressed willingness to sit down and talk with him. "Who the hell cares? I'll speak to anybody," Trump said. "There's a 10 percent or 20 percent chance I could talk him out of having his damn nukes, because who the hell wants him to have nukes?" At times, he showed an inclination to outsource the Kim problem to China. "I would get China to make that guy disappear, in one form or another, very quickly," Trump told CBS on February 10, 2016. "China has absolute control of North Korea. They won't say it, but they do, and they should make that problem disappear."

The practitioner of "The Art of the Deal" first broached talking to Kim on January 6, 2016, the very day North Korea conducted its fourth test of a nuclear device. "You have this madman over there who probably would use it, and nobody talks to him other than, of course, Dennis Rodman," he told "Fox and Friends." "But nobody is talking to him whatsoever, and nobody is discussing it with China." In a May 17 interview with Reuters, he revealed his willingness to sit down with Kim in person, saying, "I would have no problem speaking to him." In a campaign appearance in California on June 6, he disparaged experts' "qualms about bargaining with North Korea."

Once in office, rhetoric became policy. His "America First Foreign Policy," published on Inauguration Day, declares: "[I]n pursuing a foreign policy based on American interests, we will embrace diplomacy. The world must know that we do not go abroad in search of enemies, that we are always happy when old enemies become friends, and when old friends become allies."

Trump's deeds backed up his words. In a subtle signal, on January 19, his last full day in office, Obama had authorized a token amount of US aid for North Korea—the first in five years—for flood relief, and the incoming Trump administration made that gesture public on Voice of America on January 25. Distracted by a torrent of tweets and leaks, the news media paid no attention, but Trump's interest in talks did not pass unnoticed in Pyongyang. North Korean news agency KCNA acknowledged the aid on February 10. And Kim Jong-un reacted cautiously to Trump. Whenever Washington and Beijing had threatened concerted pressure at the UN Security Council, North Korea responded with nuclear tests—in 2006, 2009, 2013,

Sigal, Leon V. "A Deal-Maker's Chance: Why Trump Should Engage with North Korea," *Global Asia*, March 2017. Copyright ©2017 by East Asia Foundation. Used with permission.

and early 2016—in an effort to drive them apart. Yet, after the Security Council imposed sanctions in November, defying South Korean warnings that he would soon conduct a nuclear test, Kim held his fire—a sign that he was waiting to see if Trump was ready to negotiate.

Kim also expressed interest in dialogue in his New Year's Day address, and not just resuming military-to-military talks with South Korea. Overlooked by most media reports, he said: "We will continue to build up our self-defense capability, the pivot of which is the nuclear forces, and the capability for a pre-emptive strike as long as the United States and its vassal forces keep on nuclear threat and blackmail and as long as they do not stop the war games they stage at our doorstep disguising them as annual events." The implication, spelled out by North Korean diplomats in informal contacts, was that Pyongyang was open to talks with Trump and could suspend its weapons testing and build up if Washington stopped issuing nuclear threats and scaled down its military exercises with South Korea.

At the same time, Kim underscored what was at stake if there were no negotiations. North Korea displayed two truck-mounted missiles that South Korea misleadingly identified as ICBMs. And Kim warned in his New Year's address, "We have reached the final stage in preparations to test-launch an intercontinental ballistic rocket," implying the ICBM was not yet ready. Trump's tweeted response, "Won't happen," was widely taken as a threat to attack the test.

Worst of all, Kim test-launched a solid-fueled KN-11 missile on February 12. That may have been motivated by more than Pyongyang's usual tactic of launching offers on a sea of threats. The launch came amid growing calls in Washington and Seoul to wage preventive war to end North Korea's arms program. As if to underscore that loose talk, on February 8, the US test-launched a Minuteman III ICBM from Vandenberg Air Force Base and starting on February 14, two days after the KN-11 launch, it test-launched three Trident long-range missiles from a submarine off the California coast. A 2+2 meeting with South Korean officials on December 20 last year pointedly drew attention to similar test-launches that had taken place in 2016: "The United States reiterated its iron-clad and unwavering commitment to draw on the full range of its military capabilities, including the nuclear umbrella, conventional strike, and missile defense, to provide extended deterrence for the RoK, and reaffirmed the longstanding US policy that any attack on the United States or its allies will be defeated, and any use of nuclear weapons will be met with an effective and overwhelming response."

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Even after the KN-11 launch and the nerve-agent murder of Kim Jong-nam, the US State Department for the first time in five years issued visas for a North Korean delegation led by Choe Son Hui to attend a Track II meeting in New York. That decision was abruptly reversed shortly thereafter. Were the canceled visas just another "head fake," the White House's buzzword for Trump's tactic of misdirection? If so, to stave off trouble, the administration needs to reassure Pyongyang that it still wants talks.

The turnabout wrong-footed both Japan and China. Trump's low-key response to the KN-11 launch had left Japanese Prime Minister Shinzo Abe with the impression that he might hold talks with Pyongyang, something Abe was already doing. After the launch, China had announced the suspension of coal imports from North Korea for a year, leading proponents of tighter sanctions to crow that China was finally on side. Yet Beijing, anticipating that talks could be in the offing, may have been positioning itself to claim credit for coaxing Pyongyang to the negotiating table. It had already imported its quota of North Korean coal allowed under UN sanctions and could continue to let coal trickle in through leaky borders, then resume imports if the talks made headway.

Instead, the public debate in Seoul and Washington is about new sanctions, even relisting North Korea as a state sponsor of terrorism. North Korea has warned that "as a nuclear power" it will then "take stronger measures for self-defense"—presumably missile or nuclear tests.

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Sanctions have been tried for years with no discernible effect, but proponents say they take time to compel North Korea to the negotiating table on US terms. How long? Two years? Five years? Ten years? Never? In the meantime, how many nuclear and missile tests will North Korea carry out? How much fissile material will it make? How many ICBMs will it field?

Strategic impatience seems warranted by now. North Korea's fifth nuclear test may have yielded a nuclear device that can be mounted on a missile, although it may need a few more tests to prove the device's reliability. The 5-MWe nuclear reactor at Yongbyon has resumed generating more spent fuel, a refurbished reprocessing facility has just turned some of that spent fuel into plutonium, a new reactor is nearing completion, and its uranium enrichment program has expanded. At its current pace, Pyongyang could have enough fissile material for more than 50 nuclear weapons by the end of Trump's first term.

Pyongyang's launch on September 5, 2016, of three intermediate-range Nodong missiles and the March 6 launch of four extended-range SCUDs showed how a barrage attack could overwhelm America's Terminal High-Altitude Area Defense (THAAD) antimissile system now being deployed in South Korea. It is also test-launching new missiles, an intermediate-range Musudan and a solid-fueled KN-11 ballistic missile—based on the old Soviet RS-27 or SS-N-6—that can be submarine- or mobile-launched to circumvent THAAD. An as yet untested KN-08 ballistic missile is assessed to be capable of reaching the United States, but without testing, neither Washington nor Pyongyang can be sure of its range or reliability. Developing it could take three years or more. Cyberwarfare could at best delay the inevitable—if that. Long before then, Trump will hear the siren song of preventive war. Heeding it would spark a crisis in the alliance.

A Sensible Approach

The only way out of this predicament is to resume talks with North Korea to probe whether it is willing to suspend its nuclear and missile programs.

That objective has been the focus of all three agreements that the United States has made with North Korea: the 1994 Agreed Framework, the six-party joint statement of September 19, 2005, and the 2012 Leap Day deal. Contrary to conventional wisdom, the first two accords did enjoy some success. The 1994 accord halted all fissile material production in North Korea for more than nine years, until the administration of US President George W. Bush scrapped it on the basis of US intelligence reports that Pyongyang was secretly acquiring the means to enrich uranium—without bothering to probe North Korea's October 2002 offer to negotiate the issue. In addition, a halt to Pyongyang's missile programs was agreed in principle by the administration of US President Bill Clinton in 2000, only for the Bush administration to refuse to negotiate further.

The 2005 accord was nearly stillborn when, two days before it was finalized, the US Treasury Department threatened to deny access to American financial institutions for all banks that did business with North Korea, starting with Banco Delta Asia in Macau. An ensuing run on that bank prompted Macau authorities to seize North Korean funds in the bank. Pyongyang demanded that the funds be repatriated before it would carry out the accord. Unrequited, it conducted its first nuclear test in October 2006. Within days, Washington agreed to discuss the return of the funds. Once that was done, Pyongyang ceased all fissile material production at Yongbyon as well as nuclear tests and missile test-launches—only to have the deal fall apart in 2009 after South Korea failed to deliver promised energy aid.

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Talking about Talks?

Given that history, trying for a suspension yet one more time would face formidable political opposition in Washington and Seoul. Opponents demand that no deal be sought unless Pyongyang first commits to denuclearization, which it insists it will not do. Delaying suspension of North Korea's programs while seeking such a commitment would sacrifice the practical on the altar of the theoretical. And trying for permanent dismantling of Pyongyang's nuclear and missile programs would take much more substantial inducements and consume precious time. In short, without conceding the goal of denuclearization of the Korean Peninsula, negotiations have to start somewhere. Insisting on a commitment to denuclearization or a more comprehensive deal while North Korea's programs proceed apace does not make much strategic sense.

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The chances of persuading North Korea to go beyond a temporary freeze to dismantle its nuclear and missile programs are slim without firm commitments from Washington and Seoul to end enmity through political and economic normalization, a peace process to end the Korean War and negotiations on regional security arrangements, among them, a nuclear-weapon-free zone that would

provide a multilateral legal framework for denuclearization. Trump's willingness to hold out the prospect of a summit meeting with Kim Jong-un would also be a significant inducement. Assuaging doubts about Trump's enduring commitment to the alliance would reduce Seoul's resistance to engaging in a peace process.

In conclusion, the assassination of Kim Jong-nam reveals little about the North Korean regime that was not already known. It would be a tragic mistake if it impeded Trump from finding out whether it is willing to stop arming.

Leon V. Sigal is a director of the Northeast Asia Cooperative Security Project at the Social Science Research Council in New York.



Bruce Klingner

NO

Testimony during Hearings on "Pressuring North Korea: Evaluating Options"

The security situation on the Korean Peninsula is dire and worsening. There is a disturbingly long list of reasons to be pessimistic about maintaining peace and stability in northeast Asia.

- North Korea's growing nuclear and missile capabilities are already an existential threat to South Korea and Japan and will soon be a direct threat to the continental United States. Pyongyang's decades long quest for an unambiguous ability to target the United States with a nuclear-tipped ICBM may be entering endgame.
- Pyongyang undertook a robust nuclear and missile test program in 2016, achieving several breakthroughs, expanding its threat to our allies and U.S. troops in the region. Recent missile launches shows Pyongyang will continue its provocative behavior under the Trump Administration.
- Kim Jong-un declared the regime has "reached the final stage of preparations to test-launch an intercontinental ballistic missile" and would continue to build up "the capability for preemptive strike." Pyongyang declared "The ICBM will be launched anytime and anywhere."
- Pyongyang has repeatedly vowed it will never abandon its nuclear arsenal and dismissed the potential for denuclearization negotiations.
- China reacted viscerally to the allied deployment of the Terminal High-Altitude Area Defense (THAAD) ballistic missile defense system. Beijing has repeatedly shown it is more willing to punish defense responses than the threatening behavior that precipitated them.
- North Korea used VX—a chemical weapon of mass destruction—to assassinate the half- brother of Kim Jong-un in a crowded civilian airport.
- U.S. policy makers, lawmakers, and experts assess that the time for dialogue with Kim Jong-un has passed and that the United States must impose augmented sanctions to tighten the economic noose on North Korea. Though it is the proper policy, it carries the risk of strong reactions by Pyongyang and Beijing.
- There is growing concern in South Korea about U.S. capabilities, resolve, and willingness to defend their country, particularly once North Korea demonstrates an unambiguous ability to threaten the U.S. mainland with nuclear weapons.
- The impeachment of Park Geun-hye will bring a liberal successor who may pursue policies at odds with U.S. objectives.
- There is growing advocacy for preemptive military actions against North Korea, mimicking regime comments of its own preemption plans. This raises the risk of military conflict, either intentionally or through miscalculation.

Negotiations with North Korea: Abandon Hope All Ye Who Enter Here

As the Trump Administration conducts its North Korea policy review, it faces a perfect storm of Asian headaches, threats, and crises. Initial indications are that the administration will emphasize improving defense capabilities, particularly ballistic missile defense; augmenting pressure tactics on the regime; and seeking ways to get Beijing to fully enforce UN sanctions.

While the door will remain open for diplomatic engagement, it will likely only be a secondary objective due to North Korea's recent provocative behavior and the international consensus to pressure the regime for its repeated violations of UN resolutions and international laws.

Advocates for engagement will insist that the only way to constrain Pyongyang's growing nuclear arsenal is to rush back to nuclear talks without insisting on preconditions. But there is little utility to such negotiations

Klingner, Bruce. "Testimony During Hearings on Pressuring North Korea: Evaluating Options," *U.S. House of Representatives Committee on Foreign Affairs*, March 2017.

as long as Pyongyang rejects their core premise, which is abandonment of its nuclear weapons and programs.

Ninth time the charm? Promoting another attempt at a negotiated settlement of the North Korean nuclear problem flies in the face of the collapse of Pyongyang's previous pledges never to develop nuclear weapons or, once caught with their hand in the nuclear cookie jar, subsequent promises to abandon those weapons.

Pyongyang previously acceded to the 1992 North–South Denuclearization Agreement, the Non-Proliferation Treaty (NPT), the International Atomic Energy Agency safeguards, the Agreed Framework, three agreements under the six-party talks and the Leap Day Agreement—all of which ultimately failed. A record of zero for eight does not instill a strong sense of confidence about any future attempts.

For over 20 years, there have been official two-party talks, three-party talks, four-party talks, and six-party talks to resolve the North Korean nuclear issue. The U.S. dispatched government envoys on numerous occasions for bilateral discussions with North Korean counterparts. The United States and its allies offered economic benefits, developmental assistance, humanitarian assistance, diplomatic recognition, declaration of non-hostility, turning a blind eye to violations, and non-implementation of U.S. laws.

Seoul signed 240 inter-Korean agreements on a wide range of issues and participated in large joint economic ventures with North Korea at Kaesong and Kumgangsan. Successive South Korean administrations, including those of conservative Presidents Lee Myung-bak and Park Geun-hye, offered extensive economic and diplomatic inducements in return for Pyongyang beginning to comply with its denuclearization pledges.

There have been extensive unofficial outreach efforts through visits by philharmonic orchestras, soccer teams, Olympic teams, cheerleading teams, and so on. Yet, all of these official and unofficial initiatives failed to induce political and economic reform or moderate North Korea's belligerent behavior.

It is also difficult to have a dialogue with a country that shuns it. North Korea closed the "New York channel" in July 2016, severing the last official communication link. Pyongyang walked away from senior-level meetings with South Korean counterparts in December 2015, precipitating the collapse of inter-Korean dialogue. In the Joint Security Area on the Demilitarized Zone, North Korea refuses to even answer the phone or check its mailbox for messages from the United States and South Korea.

Hope springs eternal. Despite these failures, there has been a renewed advocacy by some experts to negotiate a nuclear freeze. The proposals all share a common theme in calling for yet more concessions by the United States to encourage Pyongyang to come back to the negotiating table in return for a commitment by the North to undertake a portion what it is already obligated to do under numerous UN resolutions.

Been There, Done That. A nuclear freeze was already negotiated with the February 2012 Leap Day Agreement in which the United States offered 240,000 tons of nutritional assistance and a written declaration of no hostile intent. In return, North Korea pledged to freeze nuclear reprocessing and enrichment activity at the Yongbyon nuclear facility, not to conduct any nuclear or missile tests and to allow the return of International Atomic Energy Association inspectors to Yongbyon. That agreement crashed and burned within weeks. Indeed, all eight denuclearization agreements with North Korea were variants on a nuclear freeze. Yet that does not seem to deter freeze proponents from advocating another try. Hope is a poor reason to ignore a consistent track record of failure.

North Korea Not Interested in Denuclearization. Nuclear freeze proponents have provided no rationale for why yet another attempt at negotiations would be any more successful than previous failures. Nor have they provided any evidence indicating a North Korean policy shift away from its declared rejection of denuclearization. Indeed, the strongest case against diplomacy can be found in the regime's own words, in which the highest levels of the regime, including Kim Jong-un, have repeatedly and unambiguously made clear that Pyongyang will never abandon the "treasured sword" of its nuclear arsenal and that the six-party talks are "null and void."

Pyongyang has indicated that no level of economic benefits could address the security concerns that the regime cites as justification for its nuclear programs. As such, there is no utility in offering such assistance. Indeed, opening North Korea to outside economic assistance is an anathema to the regime since it allows the contagion of outside influence to reach the populace. Similarly, since North Korean nuclear weapons are purported to be a response to the "hostile policy" of the United States, then no South Korean offers of economic assistance or security measures could dissuade Pyongyang from its nuclear programs.

Too High a Price. What would the United States and its allies have to offer to achieve a freeze? Those things that were previously offered to no effect? Or would Washington

and others have to provide even greater concessions and benefits? The regime has an insatiable list of demands, which include:

- *Military demands*—the end of U.S.–South Korean military exercises, removal of U.S. troops from South Korea, abrogation of the bilateral defense alliance between the U.S. and South Korea, canceling of the U.S. extended deterrence guarantee, postponement or cancelation of the deployment of THAAD to South Korea, and worldwide dismantlement of all U.S. nuclear weapons;
- *Political demands*—establishment of formal diplomatic relations with the United States signing of a peace treaty to end the Korean War and no action on the UN Commission of Inquiry report on North Korean human rights abuses;
- *Law enforcement demands*—removal of all UN sanctions, U.S. sanctions, EU sanctions, and targeted financial measures; and
- Social demands against South Korean constitutionally protected freedom of speech (pamphlets, "insulting" articles by South Korean media, and anti-North Korean public demonstrations on the streets of Seoul).

Consequences of a Bad Agreement. A freeze would be a de facto recognition and acceptance of North Korea as a nuclear weapons state. Doing so would undermine the NPT and send the wrong signal to other nuclear aspirants that the path is open to nuclear weapons. Doing so would sacrifice one arms control agreement on the altar of expediency to get another.

A nuclear freeze agreement without verification would be worthless. North Korea's grudging admission of its prohibited highly enriched uranium program made verification even more important and difficult. The more easily hidden components of a uranium program would require a more intrusive verification regime than the one that North Korea balked at in 2008.

A freeze would leave North Korea with its nuclear weapons, which already threaten South Korea and Japan. Such an agreement would trigger allied concerns about the U.S. extended deterrence guarantee, including the nuclear umbrella, to South Korea and Japan. Allied anxiety over U.S. reliability would increase advocacy within South Korea for an independent indigenous nuclear weapons program and greater reliance on preemption strategies.

Pyongyang may be willing to talk—but not about the topic of paramount U.S. concern: the denuclearization required by UN resolutions to which Pyongyang previously committed several times, but failed to fulfill.

Tightening the Economic Noose—Targeting North Korea's Cash Flow

Increased financial sanctions, combined with the increasing pariah status of the regime from its human rights violations, are leading nations to reduce the flow of hard currency to North Korea. While sanctions only apply to prohibited activities, even legitimate North Korean enterprises are becoming less profitable.

Numerous countries are severing their business relationships with North Korea by suspending economic deals, curtailing North Korean worker visas, and ejecting North Korean diplomats.

- South Korea terminated its involvement in the inter-Korean economic venture at Kaesong. South Korea's action severed a critical source of foreign currency for North Korea. Kaesong generated 23 percent of North Korea's foreign trade ($2.3 billion of North Korea's annual overall trade of $9.9 billion) and $120 million in annual profits.
- Russian state-run gas company Gazprom ended plans for energy-related projects with North Korea due to concerns arising from UN sanctions.
- Taiwan implemented a complete ban on imports of North Korean coal, iron ore, and some other minerals.
- Uganda directed that all North Korean military and police personnel should depart the country and that it was severing military and security ties with Pyongyang, which had been a source of revenue for the regime. There were approximately 50 North Korean military and police training officials. UN resolutions preclude North Korea from engaging in weapons trades or military training with other countries.
- Sudan severed military ties with North Korea. In November 2016, Sudanese Foreign Minister Ibrahim Ghandour declared there were no longer any military or diplomatic cooperation with North Korea and that all diplomats had been removed.
- Namibia halted economic ties with two North Korean state-run companies which had built a munitions factory, a violation of UN resolutions. The North Korean entities were Korea Mining Development Trading Corporation, which is on the UN list of sanctioned entities for earning foreign cash via illicit arms deals, and its affiliate Mansudae Overseas Projects. Africa has been an important arms market for North Korea.
- Angola suspended all commercial trade with North Korea, South Africa stopped military cooperation and weapons deals, and Uzbekistan demanded

the departure of all North Korean diplomats and the closure of the North Korean embassy.
- Bangladesh, South Africa, Burma, and other countries have expelled North Korean diplomats for illicit activities.

North Korean Overseas Financial Operations Suffering

- *Conventional arms sales*. North Korea officials tied to illegal sales of conventional arms were deported from Burma, Egypt, and Vietnam. Pyongyang reportedly earned $300 million in hard currency from arms sales in 2015. In March, China arrested dozens of smugglers involved in illegal arms trafficking with North Korea.
- *Overseas restaurants*. Kim Jong-un expanded North Korean restaurants overseas to generate additional money for the regime. A high-ranking North Korean military defector estimated the regime's restaurants in China contributed $200 million annually to the regime. At least 30 of North Korea's overseas restaurants have closed due to dwindling business brought on by sanctions, China's anti-hedonism rules, and the South Korean government calling on its citizens to avoid the restaurants.
- *Trading companies*. North Korean trading companies in China to earn hard currency began defaulting on payments to Chinese creditors and began having difficulty acquiring lines of credit. A North Korean source reported, "Companies under the Ministry of External Economic Affairs and other trade agencies have [since April] begun experiencing a severe foreign currency crisis." Even Prime Minister Pak Pong-ju and Office 39, the North Korean leadership's money laundering organization, suffered foreign currency shortages.
- *Transportation organizations*. Cambodia, Mongolia, and Singapore have revoked their permission for North Korean ships to sail under their national flag, which Pyongyang had used to evade sanctions. North Korea's Ocean Maritime Management Company, sanctioned by the UN, has been essentially shut down and its ships denied access to ports. Kuwait, Thailand, and Pakistan no longer allow Air Koryo to land in their countries, leaving only Russia and China as allowing flights.
- *Overseas workers*. Malta, Poland, and Qatar have stopped issuing work visas to North Korean workers in response to human rights abuses. Oman repatriated 300 North Korean workers who had been involved in construction projects in response to greater international scrutiny. Singapore will tighten control on North Korea immigrants by revoking North Korea's visa waiver status. Singapore was one of the few countries that allowed North Korean citizens to enter without a visa. In March 2017, Malaysia canceled its visa waiver program with North Korea after the assassination of Kim Jong-nam at the airport in Kuala Lumpur. The South Korean foreign ministry indicated that other countries in Africa, the Middle East, and Europe have also taken steps to reduce the number of North Korean laborers.

Raising the Cost of North Korean Defiance

Each individual action to constrict North Korea's trade may not be decisive, but cumulatively these efforts reduce North Korea's foreign revenue sources, increase strains on the regime, and generate internal pressure. Collectively, the sanctions and measures to target North Korea's financial resources are forcing the regime to switch to less effective means to acquire and transfer currency as well as increasing stress on elites and the regime.

Sanctions and targeted financial measures serve a number of purposes:

- Enforce U.S. law and UN resolutions.
- Impose penalties on those that violate laws and sent a signal to other potential violators that prohibited nuclear programs comes with high economic and diplomatic costs.
- Raise the costs and slow the development of North Korea's development of nuclear and missile arsenals.
- Augment measures to constrain the import of items for North Korea's prohibited nuclear and missile programs.
- Strengthen non-proliferation measures.
- Disrupt North Korean illicit activities, including illegal drug manufacturing and trafficking, currency counterfeiting, money-laundering, and support to terrorist group.
- Highlight human rights abuses to drive nations away from conducting business with the heinous regime.
- Raise the risks for entities doing business with Pyongyang by eliminating their ability to access the U.S. financial network.
- Reduce North Korea's financial and trade linkages to the outside world and constrain the regime's money-making operations to induce more defections, closure of less profitable operations overseas, and a liquidity crisis.
- Use pressure from within to create greater internal pressure and fissures within the regime.

Decreasing, induce more defections and acts of domestic resistance, and put regime stability at risk.
- In conjunction with all the other instruments of national power, reshape North Korea's perception of the costs of violating UN resolutions and laws and persuade the regime to comply with UN resolutions and its previous denuclearization commitments.

Although North Korea has been subject to sanctions for decades, targeted financial measures (smart sanctions) have only been recently imposed on North Korea and half-heartedly at that due to Obama Administration timidity. It can well be argued that sanctions were not effectively imposed until 2016 with a stronger UN resolution and the Congressional-initiated North Korea Sanctions and Policy Enhancement Act. The latter was an attempt to induce the Obama Administration to more fully enforce US law.

Follow (and Seize) the Money

North Korea adapted to increasing international pressure by altering its modus operandi, shifting networks, using shell companies, and fabricating documents. As Pyongyang shifted to Chinese brokers more integrated into the global economy, it increased North Korea's exposure and vulnerability to international pressure.

But U.S. law enforcement agencies didn't keep pace. Sanctions enforcement must be flexible, innovative, and adaptive to the changing tactics of the target, rather than abandoning efforts to uphold law and order as having become too difficult. Washington should have begun including Chinese violators on the U.S. sanctions. But the Obama administration resisted doing so. A Stockholm International Peace Research Institute study from 2014 found that 91 percent of United States and 84 percent of UN targeted entities were North Korean, but that 74 percent of sanctions evading networks identified in the report were third country (non-North Korea) entities.

Time to Break Some China

In September 2016, the Treasury and Justice Departments sanctioned five Chinese entities for laundering money using shell companies to surreptitiously moving funds through US banks. The Hongxiang Industrial Development Corporation had engaged in $532 million worth of trade with North Korea during 2011–2015. The action, required by the NKSPEA, was the first time the Obama Administration sanctioned a Chinese entity for providing assistance to North Korea's nuclear weapons program.

In March 2017, the United States imposed a $1.2 billion fine on Chinese telecommunication firm ZTE for violating export sanctions to Iran and North Korea. The U.S. actions could have a chilling effect on other Chinese banks and businesses engaging with North Korea.

While sanctions opponents assert that Beijing will not go along with U.S. sanctions, Washington can influence the behavior of Chinese banks and businesses that engage with North Korea through the use of targeted financial measures. When Washington took action against Macau-based Banco Delta Asia in 2005, labeling it a money-laundering concern, U.S. officials traveled throughout Asia, inducing 24 entities—including the Bank of China—to cease economic engagement with North Korea.

U.S. officials indicate that the Bank of China defied the government of China in severing its ties with North Korea lest the bank face U.S. sanctions itself. The action showed that U.S. government actions can persuade Chinese financial entities to act in their self-interest even against the wishes of the Chinese government.

The NKSPEA mandates secondary sanctions on third-country (including Chinese) banks and companies that violate U.N. sanctions and U.S. law. It forces them to choose between access to the U.S. economy and the North Korean economy. The U.S. should penalize entities, particularly Chinese financial institutions and businesses, that trade with those on the sanctions list or export prohibited items. The U.S. should also ban financial institutions that conduct business with North Korean violators from access to the U.S. financial network.

Put North Korea Back on the Terrorist List

The Bush administration removed Pyongyang from the state sponsors of terrorism list in 2008 in a failed attempt to stimulate progress in the six-party talks nuclear negotiations. Since its removal from the terrorism list, Pyongyang has conducted several terrorist acts, including deadly attacks against North Korean defectors abroad:

As one component of a broader U.S. strategy toward North Korea, the Trump administration should return Pyongyang to the state sponsors of terrorism list. Under 18 U.S. Code § 2331, international terrorism is defined as acts that:

(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended:

(i) to intimidate or coerce a civilian population;
(ii) to influence the policy of a government by intimidation or coercion; or
(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.

Returning North Korea to the terrorist list would be a proper and pragmatic recognition of regime behavior that violated U.S. statutes. It would also have tangible impact on regime finances. It would enable invoking stronger financial transaction licensing requirements under 31 CFR Part 596 versus 31 CFR Part 510 and remove North Korea's sovereign immunity from civil liability for terrorist acts. Redesignation would require the U.S. government to oppose loans to North Korea by international financial institutions, such as the World Bank, International Monetary Fund, and Asian Development Bank.

The designation would also assist the international effort to increase North Korea's diplomatic and economic isolation for its actions. Last year, several countries and companies severed their business relationships due to North Korea's violations, the abysmal conditions its overseas laborers worked under, and its human rights violations deemed by the UN to constitute "crimes against humanity." Designating North Korea as a state sponsor of terrorism could induce additional business partners to avoid dealing with such a heinous regime.

Impose Sanctions for Human Rights Abuses

In July 2016, the Obama administration imposed sanctions on North Korean leader Kim Jong-un, 10 other individuals, and five entities "for their ties to North Korea's notorious abuses of human rights." It was the first time that the United States had designated North Korean entities for human rights abuses.

The action cut the entities off from the U.S. financial system and made it more risky for any institution to hold or move the money on behalf of North Korea. It also "has a worldwide ripple effect. Banks and financial institutions outside the U.S. use OFAC's SDN list and follow it as a measure of risk [and] compliance."

Sanctioning Kim Jong-un and others will not only have a direct financial impact on the North Korean regime, but could also have powerful secondary reverberations for the pariah regime. Concern over potential secondary liability, or of keeping company with perpetrators of crimes against humanity, could galvanize other nations to reduce or sever their economic interaction with such a heinous regime. The United States should expand the list of human rights violating entities subject to sanctions.

Improve Information Access in North Korea

Promoting democracy and access to information in North Korea is in both the strategic and humanitarian interests of the United States. But getting information into North Korea is no easy feat. The regime's information blockade ranges from instituting an internal Internet server to limitations on the number of accessible radio stations, to prohibitions on the type of books that can be read. Persons caught with a Bible, for example, or unapproved Western literature, often face consequences as severe as death.

International efforts to penetrate the information firewall in North Korea have thus far focused primarily on radios, DVDs, and cell phones. However, new technology is offering more innovative ways to get information into North Korea which the United States should incorporate into its strategy to promote information access in North Korea.

There are three main ways to access outside information in North Korea: radio; electronic devices like USB drives, DVDs, CDs; and cell phones. Emerging technology presents opportunities to disseminate information in new ways that may improve information access in the Democratic People's Republic of Korea (DPRK). To find new methods of cross-border data penetration, Silicon Valley entrepreneurs and programmers gathered at Hack North Korea, an event organized by the Human Rights Foundation (HRF). Some new ideas discussed at the event included the use of compact satellite dishes which are easily concealed and have the potential to receive signals from South Korean broadcasts, and smart balloons with a propeller and GPS unit for dropping leaflets, DVDs, and USBs more effectively. The HRF is looking for other ways to advance technologies that disrupt the DPRK's information monopoly.

Conclusion

Washington must sharpen the choice for North Korea by raising the risk and cost for its actions as well as for those, particularly Beijing, who have been willing to facilitate the

regime's prohibited programs and illicit activities and condone its human rights violations.

Sanctions require time and the political will to maintain them in order to work. While there are additional measures that can and should be applied, more important is to vigorously and assiduously implement existing UN measures and U.S. laws. We must approach sanctions, pressure, and isolation in a sustained and comprehensive way. It is a policy of a slow python constriction rather than a rapid cobra strike. North Korea must feel unbearable pain from sanctions to the point that it sees regime existence is under threat. Pyongyang shouldn't feel a pinch from sanctions but rather a swift kick to the groin. The reality is that we are seeking to create conditions for bringing about a change in the regime while engaging in a long-term containment policy.

Bruce Klingner is a senior research fellow for Northeast Asia at the Heritage Foundation.



EXPLORING THE ISSUE

Should the U.S. Engage with North Korea over its Nuclear Weapons Program?

Critical Thinking and Reflection

1. Do you think the North Korean regime will ever be willing to dismantle its nuclear program?
2. Do you think the U.S. has failed to appreciate the insecurity felt by the North Korean regime?
3. Would the world be more secure if North Korea was provided with help to make its nuclear deterrent safe?
4. Do you believe the Nuclear States of the NPT are being hypocritical in trying to deny North Korea a nuclear deterrent, if they are unwilling to relinquish their own?

Is There Common Ground?

As in the case of Iran, there does appear to be common ground between the authors. They share at least the ultimate goal of a denuclearized Korean peninsula, with both states as members of the NPT. The non-proliferation of nuclear weapons is thus believed by both to be a common good.

Perhaps the greatest difference between the discussions of these two issues is that both authors in the Iranian issue felt that sanctions and/or the threat of force was instrumental in convincing the Iranian government to negotiate an agreement. In this case, however, Sigal argues that such an approach is counter-productive, as it will convince the North Koreans that their fears of U.S. aggression are justified. Of course, there are scholars who argue the same thing in the case of Iran.

Significantly, the German Chancellor, Angela Merkel, has suggested that the Iranian agreement might be a model for the North Korean case. The Iranian model does appear to be something of a middle ground between these two scholars. If this approach is successful, both authors will probably claim that their approach has been affirmed, with Klinger pointing to the additional sanctions as instrumental to its success and Sigal arguing that sanctions were unnecessary and that North Korea would have negotiated anyway.

Additional Resources

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Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Can Islam Be Blamed for Inciting Terrorism?

YES: Ayaan Hersi Ali, from "Islam Is a Religion of Violence," *Foreign Policy* (2015)

NO: Manal Omar, from "Islam Is a Religion of Peace," *Foreign Policy* (2015)

Learning Outcomes

After reading this issue, you will be able to:

- Explain the debate over the use of the phrase "radical Islamic terrorism."
- Assess whether Islamic scripture is a significant cause of terrorism.
- Explain the conditions that might cause radicalization and violent extremism.

ISSUE SUMMARY

YES: Ayaan Hersi Ali, a research fellow at the Hoover Institution, Stanford University and a fellow with the Future of Diplomacy Project at the Belfer Center for Science and International Affairs at The Harvard Kennedy School, criticizes the failure of "moderate Muslims" to acknowledge the religious justification for violence, gender inequality, and religious discrimination contained within Islamic doctrine. Ali believes that, until they do so, it will be impossible to defeat the spread of hate and intolerance that motivates violent extremists.

NO: Manal Omar, an associate vice president for the Middle East and Africa Center at the United States Institute of Peace, criticizes such analysis for oversimplifying the true causes of terrorism, which she believes are rooted in the complex political and social circumstance in which terrorists are forged.

Six days after the terrorist attacks on September 9, 2001, President George W. Bush gave a speech at the Islamic Center of Washington, DC, in which he stated that the "acts of violence against innocents" that the world had witnessed less than a week before had violated "the fundamental tenets of the Islamic faith." He continued, "Islam is peace. These terrorists don't represent peace. They represent evil and war." This conviction seemed uncontroversial at the time and the world for a moment appeared to be united around a characterization of the terrorists as people who had hijacked a peaceful religion for their own personal and political objectives.

When President Obama took office in 2009, he adopted a similar approach and language to his predecessor. In speeches in Cairo and Turkey during his first year in office, he sought to reengage with the Islamic world, which had become suspicious of George Bush's unilateral tendencies and his "war on terror," which seemed at times focused solely on Muslim countries, whether or not they had connections to 9/11. Obama sought in his speeches to reassure them of the United States' good intentions. As he stated in his speech to the Turkish parliament, the "U.S. is not, and will never be, at war with Islam."

Though they agreed with the shared approach adopted by Presidents Bush and Obama, foreign policy analysts Joshua Holdenried and David Adesnik wrote in early 2016 of the "credibility gap" they believed existed between the rhetoric of these administrations and the experience of ordinary Americans watching

and reading about terrorist groups like Al Qaeda and ISIS. As they wrote:

> While Obama is almost certainly right that "the overwhelming majority of Muslims reject that [perverted] interpretation of Islam," neither he nor Bush has been able to answer the question why, if that interpretation is patently false, tens of thousands of young Muslims are leaving comfortable homes to wage the holy war declared by the Islamic State. In other words, how is it possible for terrorists to pervert or highjack a religion while persuading so many others that they have not distorted it in any way? (2016)

Their fear was that short of an adequate explanation, there was a risk that Americans will come to the false conclusion that Islam itself is the problem.

Of course, there are those who believe that Islam *is* the problem. During the Bush and Obama years they remained far from the corridors of power, but the Trump administration has brought some into the White House itself. In fact, President Trump himself frequently criticized President Obama and Secretary of State Clinton during the campaign for refusing to use the phrase "radical Islamic terrorism." This played on the credibility gap identified by Holdenried and Adesnik, because he was able to present it as a "common sense" answer to the question they had posed. The implication of the phrase is that the terrorism Americans were witnessing had at least some roots in the teaching of the religion. In fact, Trump in a television interview in March 2017 actually said that he thought "Islam hates us." His argument on the campaign was that if you fail to identify it and call it by the appropriate name, then you cannot ever hope to deal with it effectively. He also brought sympathizers for his viewpoint into his administration, including his Special Advisor, Steve Bannon, and first National Security Advisor, Michael Flynn.

So, who is correct? Does Islam have teachings that can be easily interpreted to advocate for the use of violence, or is the answer to the "credibility gap" that these terrorists are Muslims, but that the true motivation for their violence stems from political, economic, or social grievances. In the first selection of this issue, Ayaan Hersi Ali argues for the former. She criticizes the failure of "moderate Muslims" to acknowledge the religious justification for violence, gender inequality, and religious discrimination contained within Islamic doctrine. Ali believes that, until they do so, it will be impossible to defeat the spread of hate and intolerance that motivates violent extremists. Manal Omar argues for the latter, she criticizes Ali's analysis for oversimplifying the true causes of terrorism, which she believes are rooted in the complex political, economic, and social circumstance in which terrorists are forged.



YES

Ayaan Hersi Ali

Islam Is a Religion of Violence

In the 14 years since the attacks of 9/11 brought Islamic terrorism to the forefront of American and Western awareness and then President George W. Bush launched the "Global War on Terror," the violent strain of Islam appears to have metastasized. With tracts of Syria and Iraq in the hands of the self-styled Islamic State, Libya and Somalia engulfed in anarchy, Yemen being torn apart by civil war, the Taliban resurging in Afghanistan, and Boko Haram terrorizing Nigeria, policy makers are farther away from eliminating the threat of violent Islamism than they were when they began the effort. In fact, Western countries are increasingly witnessing domestic attacks such as the murder of British military drummer Lee Rigby and the Boston Marathon bombings in 2013, the shootings at Parliament Hill in Canada in 2014, the attacks at satirical newspaper Charlie Hebdo and at a Jewish supermarket in Paris this past January, and most recently the terrorist attack in Chattanooga, Tennessee, on a military recruiting center and naval compound.

But does this violent extremism stem from Islam's sacred texts? Or is it the product of circumstance, which has twisted and contorted Islam's foundations?

To answer this, it's worth first drawing the important distinction between Islam as a set of ideas and Muslims as adherents. The socioeconomic, political, and cultural circumstances of Muslims are varied across the globe, but I believe that we can distinguish three different groups of Muslims in the world today based on how they envision and practice their faith.

The first group is the most problematic—the fundamentalists who envision a regime based on sharia, Islamic religious law. They argue for an Islam largely or completely unchanged from its original seventh-century version and take it as a requirement of their faith that they impose it on everyone else. I call them "Medina Muslims," in that they see the forcible imposition of sharia as their religious duty, following the example of the Prophet Mohammed when he was based in Medina. They exploit their fellow Muslims' respect for sharia law as a divine code that takes precedence over civil laws. It is only after they have laid this foundation that they are able to persuade their recruits to engage in jihad.

The second group—and the clear majority throughout the Muslim world—consists of Muslims who are loyal to the core creed and worship devoutly but are not inclined to practice violence or even intolerance toward non-Muslims. I call this group "mecca Muslims." The fundamental problem is that the majority of otherwise peaceful and law-abiding Muslims are unwilling to acknowledge, much less to repudiate, the theological warrant for intolerance and violence embedded in their own religious texts.

More recently, and corresponding with the rise of Islamic terrorism, a third group is emerging within Islam—Muslim reformers or, as I call them, "modifying Muslims"—who promote the separation of religion from politics and other reforms. Although some are apostates, the majority of dissidents are believers, among them clerics who have come to realize that their religion must change if its followers are not to be condemned to an interminable cycle of political violence.

The future of Islam and the world's relationship with Muslims will be decided by which of the two minority groups—the Medina Muslims and the reformers—wins the support of the meccan majority. That is why focusing on "violent extremism" is to focus on a symptom of a much more profound ideological epidemic that has its root causes in Islamic doctrine.

To understand whether violence is inherent in the doctrine of Islam, it is important to look at the example of the founding father of Islam, Mohammed, and the passages in the Quran, and Islamic jurisprudence used to justify the violence we currently see in so many parts of the Muslim world. In Mecca, Mohammed preached to his fellow tribesmen to abandon their gods and accept his. He preached about charity and the conditions of widows and orphans. (This method of proselytizing or persuasion, called dawa in Arabic, remains an important component of Islam to this day.) However, during his time in Mecca, Mohammed and his small band of believers had little success in converting others to this new religion. So, a decade after Mohammed first began preaching, he fled

Ali, Ayaan Hersi. "Islam Is a Religion of Violence," *Foreign Policy*, November 2015. Copyright ©2015 by Foreign Policy. Used with permission.

to Medina. Over time he cobbled together a militia and began to wage wars.

Anyone seeking support for armed jihad in the name of Allah will find ample support in the passages in the Quran and Hadith that relate to Mohammed's Medina period. For example, Q4:95 states, "Allah hath granted a grade higher to those who strive and fight with their goods and persons than to those who sit (at home)." Q8:60 advises Muslims "to strike terror into (the hearts of) the enemies, of Allah and your enemies, and others besides, whom ye may not know, but whom Allah doth know." Finally, Q9:29 instructs Muslims: "Fight those who believe not in Allah nor the Last Day, nor hold that forbidden which hath been forbidden by Allah and His Messenger, nor acknowledge the religion of Truth (even if they are) of the People of the Book, until they pay the Jizya with willing submission, and feel themselves subdued."

Mainstream Islamic jurisprudence continues to maintain that the so-called "sword verses" (9:5 and 9:29) have "abrogated, canceled, and replaced" those verses in the Quran that call for "tolerance, compassion, and peace."

As for the example of Mohammed, Sahih Muslim, one of the six major authoritative Hadith collections claims the Prophet Mohammed undertook no fewer than 19 military expeditions, personally fighting in eight of them. In the aftermath of the 627 Battle of the Trench, "Mohammed felt free to deal harshly with the Banu Qurayza, executing their men and selling their women and children into slavery," according to Yale Professor of Religious Studies Gerhard Bowering in his book Islamic Political Thought. As the Princeton scholar Michael Cook observed in his book Ancient Religions, Modern Politics, "the historical salience of warfare against unbelievers . . . was thus written into the foundational texts" of Islam.

There lies the duality within Islam. It's possible to claim, following Mohammed's example in Mecca, that Islam is a religion of peace. But it's also possible to claim, as the Islamic State does, that a revelation was sent to Mohammed commanding Muslims to wage jihad until every human being on the planet accepts Islam or a state of subservience, on the basis of his legacy in Medina. The key question is not whether Islam is a religion of peace, but rather, whether Muslims follow the Mohammed of Medina, regardless of whether they are Sunni or Shiite.

Today, the West is still struggling to understand the religious justification for the Medina ideology, which is growing, and the links between nonviolence and violence within it. Two main viewpoints have emerged in the debate on the causes of violent extremism in Islam. The difference between them is reflected in the different terminology used by proponents of the rival views.

Popular academics such as John Esposito at Georgetown and author Karen Armstrong believe that religion—Islam, in this case—is the "circumstantial" bit and that the real causes of Islamist violence are poverty, political marginalization, cultural isolation, and other forms of alienation, including real or perceived discrimination against Muslims. These apologists for Islam use words such as "radicalism," "violent extremism," and "terrorism" to describe the various attacks around the world committed in the name of Islam. If Islam is mentioned at all, it is to say that Islam is being perverted, or hijacked. They are quick to assert that Islam is no different from any other religion, that there are terrible aspects to other religions, and that Islam is in no way unique. That view is more or less the "official" view of policy makers, not only of the U.S. government, but also of most Western countries (though policy changes are beginning to appear on this front in some countries such as the United Kingdom, Canada, and Australia).

But the apologists' position has been a complete policy failure because it denies the religious justifications the Quran and the Hadith provide for violence, gender inequality, and discrimination against other religions.

Proponents of the alternative view, such as the late academic Patricia Crone and author Paul Berman, rely on different terms such as "political Islam," Islamism, Salafism, Wahhabism, and Jihadism. All of these terms are designed to convey the religious basis of the phenomenon. The argument is that an ideological movement to impose sharia law, by force if necessary, is gaining ground across the Middle East, North Africa, Southeast Asia, and even in Europe. In a speech this past July, British Prime Minister David Cameron said: "[S]imply denying any connection between the religion of Islam and the extremists doesn't work, because these extremists are self-identifying as Muslims. The fact is from Woolwich to Tunisia, from Ottawa to Bali, these murderers all spout the same twisted narrative, one that claims to be based on a particular faith. Now it is an exercise in futility to deny that." I agree.

The view that the ideology of radical Islam is rooted in Islamic scripture understands fully the cause of terrorism; it takes religious arguments seriously, and does not view them as a mere smokescreen for underlying "real" motivations, such as socioeconomic grievances. This school of thought understands that the problem of radicalization begins long before a suicide bomber straps on his vest or a militant picks up his machine gun; it begins in mosques and schools where imams preach hate, intolerance, and adherence to Medina Islam.

Western governments have tried to engage with "moderate Muslims": imams and community leaders who

denounce terrorist attacks and claim to represent the true, peaceful Islam. But this has not amounted to meaningful ideological engagement. These so-called moderate representatives of Islam insist that violence has nothing to do with Islam and as a result the intolerant and violent aspects of the Quran and the Hadith are never acknowledged or rejected. There is never any discussion about change within Islam to bring the morally outdated parts of the religion in line with modernity or genuine tolerance for those who believe differently.

Despotic governments, civil war, anarchy, and economic despair—all of these factors doubtlessly contribute to the spread of the Islamist movement. But it is only after the West and, more importantly, Muslims themselves recognize and defeat the religious ideology on which this movement rests that its spread will be arrested. And if we are to defeat the ideology we cannot focus only on violent extremism. We need to confront the nonviolent preaching of sharia and martyrdom that precedes all acts of jihad.

We will not win against the Medina ideology by stopping the suicide bomber just before he detonates himself, wherever he may be; another will soon take his (or her) place. We will not win by stamping out the Islamic State or al Qaeda or Boko Haram or al-Shabab; a new radical group will just pop up somewhere else. We will win only if we engage with the ideology of Islamist extremism and counter the message of death, intolerance, and the pursuit of the afterlife with our own far preferable message of life, liberty, and the pursuit of happiness.

Ayaan Hersi Ali is a research fellow at the Hoover Institution, Stanford University, and a fellow with the Future of Diplomacy Project at the Belfer Center for Science and International Affairs at The Harvard Kennedy School.



Manal Omar

NO

Islam Is a Religion of Peace

There is a tempting logic that has gained prominence in the post-9/11 world that attributes violent extremism from Muslims to the core tenets of Islam. It is tempting, of course, because if there is one single driver of conflict, after all, then there is one solution. Trying to understand the complex roots of violence can seem overwhelming, and trying to find solutions to it can leave policy makers and civic leaders paralyzed. Yet the concept of one cause—and, therefore, one solution—can be very dangerous. In the best case, this oversimplification may waste financial and human efforts to solve problems because they are based on a faulty diagnosis. In the worst case, it can actually fuel the conflict.

The temptation toward simplicity is evident even in the question posed in this debate. The framing reveals a fundamental error: that violent extremism is fundamental to Islam rather than committed by individuals. The fact that there is violence emanating from parts of the Muslim world does not mean that violence is a product of the religion.

The complicated truth of the matter is that the extremist violence that has overtaken a majority of Muslim countries, including Iraq, Syria, and Pakistan, is the product of complex political and social circumstances. They include colonial legacies and more modern great power politics—and the artificial borders that they bequeathed the region. The violence is perpetrated by official structures that favor a few over the many, and the collapse of government institutions. Religion, certainly, is part of the mix, especially in fragile nations or under authoritarian regimes, but that comes into play not because of the nature of the faith but because of the way it is abused and manipulated.

To grasp this complexity, it is important to understand three areas: the role of global politics that have destabilized the region and inflamed tensions; how dysfunctional states create an opening for extremism; and finally, how religion fills the gaps created by international and domestic uncertainties.

Let's start with the politics. In doing so, it's important to note that Western states have played a significant role in the rise of extremist groups. Middle East experts such as Hassan Hassan, who co-authored the book *ISIS: Inside the Army of Terror*, argue that the emergence of the self-styled Islamic State (another name for ISIS) has more to do with U.S. foreign policy in the Middle East—who it supports, how its military interventions have changed the region—than with the Quran. The U.S. Coalition Provisional Authority's 2003 order to dissolve the Iraqi Armed Forces, for example, left hundreds of thousands of well-trained soldiers bitter and unemployed. Many of these officers now provide the militants with the military expertise required to conquer territory as quickly as they have.

Another example of the United States' role in stoking extremism is its support for the United Nations' policies on Israel, which critics have attacked as a double standard. In 2003, John Austin, a former British Parliamentarian, wrote an article for the Palestinian NGO Miftah citing conflicts from Kosovo to East Timor to Iraq to Rwanda. In each of those cases, the U.N. imposed enforcement measures such as arms embargos, and international tribunals to prosecute crimes against humanity. Yet on Israel's illegal building of settlements, there has been no action despite numerous U.N. resolutions dating back to the late 1970s often because of U.S. intervention on its behalf.

As for state-level problems, domestic power struggles and government dysfunction across the Middle East have also opened the door for violent extremist groups. Robert I. Rotberg outlines in his book, *When States Fail: Causes and Consequences*, that a state's failure to provide citizens with basic rights and services allows violent nonstate actors to emerge and take control. Failures were not limited to economic needs; a lack of political inclusion, freedom of expression, and the right to live with dignity have been primary drivers of youth radicalization and violence. A more recent example can be seen in Iraq and Syria: the Islamic State and al-Nusra Front have offered services and material benefits to lure citizens into joining the fight.

A 2015 study by Mercy Corps, *Youth & Consequences: Unemployment, Injustice and Violence*, which examined conflicts in countries such as Afghanistan, Colombia, and Somalia, found that the principal drivers of political violence are not the high unemployment or lack of opportunities traditionally articulated by development agencies. Rather, the study found that the political violence, which

Omar, Manal. "Islam Is a Religion of Peace," *Foreign Policy*, November 2015. Copyright ©2015 by Foreign Policy. Used with permission.

is often framed in religious terms, was linked to experiences of injustice: discrimination, corruption, and abuse by security forces.

In this context, religious spaces often become incredibly important—and powerful. Extremist groups don't just offer services such as employment, they also proffer a utopian ideology that extends beyond the rhetoric of suicide and sacrifice to promise an ideal state built on strict principles of "justice" and order based on their twisted interpretation of Islam. Islam, in turn, becomes a tool for violent groups to attract support for their causes, much like the way nation-states have used nationalism and patriotic fervor. And the only venue often available for recruitment in otherwise repressive societies is the more radical religious institutions.

Under authoritarian rulers such as Iraq's Saddam Hussein and Libya's Muammar al-Qaddafi, many countries in the Middle East and beyond eliminated media outlets, student unions, and professional associations that were not directly under the control of the state. For Muslims in these environments, the mosque became the sole channel for expressing opposition, and the weekly Friday sermon the only place for dissidents to reach the people.

Using Islam as a tool of political extremism has led to many different results. The circumstances that produced the Islamic State in Syria and Iraq are different from what shaped Boko Haram in Nigeria, though both claim to be genuine Islamic groups. In the latter case, the extremist organization evolved as a response to the Nigerian government's heavy-handed approach and ultimate killing of the group's founder, Muhammad Yusuf in 2009. Prior to that, the group mainly had waged low-level attacks, rather than the spectacular assaults they now conduct against civilians and the Nigerian military.

Boko Haram and its ilk have manipulated Islam as a powerful recruitment tool, in much the same way Western states use nationalism to mobilize support for wars. Confrontations such as the invasion of Iraq, or the Soviet Union's incursion into Afghanistan, have sparked the creation of more extremist groups—by destroying civil society, for example—than religious belief ever could.

Those who claim Islam is an inherently violent religion ignore the overwhelming majority of adherents to the faith—there are more than 1.5 billion Muslims worldwide—who live peacefully. They would also ignore that using religion as a justification for violence is nothing new. There are countless examples of members of other religions invoking faith as they perpetrate violence—Buddhist nationalist movements in Sri Lanka and Myanmar instigating violent campaigns against Muslims, for instance. Most people are able to critically analyze these movements and not lay the blame on Buddhism or Christianity.

The most prominent Muslim academics agree extremist groups believe in a fringe version of Islam well outside the scholarly consensus. In 2014, more than 120 of the world's top Muslim leaders and scholars wrote an open letter to the Islamic State's leader, Abu Bakr al-Baghdadi, and his followers, using the same religious texts the militants cite and arguing the group's practices are not legitimate in Islam. Signatories include the former and current Grand Muftis of Egypt and top Muslim clerics from Nigeria, the United States, Canada, Pakistan, and Indonesia.

Muslims have taken grave risks to condemn violence, and some are on the front lines militarily too. Youth activists across the world regularly receive death threats as they offer alternative narratives to resolve conflict through nonviolence. Others have picked up arms to combat these extremist groups when condemnation is not enough. It is Muslims on the ground throughout Iraq and Syria who are leading the fight against the Islamic State. If the tenets of Islam could truly cause violence, all these Muslims would be joining the Islamic State instead of risking their lives to stop it.

Ironically, those who insist the Islamic State is a natural outgrowth of Islam share a similarly narrow conception of the religion as its followers. Despite the wealth of diversity and growth within Islam, they insist on defining it as monolithic.

Intisar Rabb, a professor of law and the director of the Islamic Legal Studies Program at Harvard Law School, argued in an email exchange, "Sunni Islam's most curious blessing and its curse is perhaps its radical legal pluralism: the ability to contemplate that any interpretation of the law, so long as it relates to and engages a sophisticated process of interpretation, is a good-faith effort to arrive at the 'right answer,' which may change over time." Historically, this has allowed for change and reformulation of the law to fit times and places as disparate as 7th century China to 10th century Baghdad to 20th century America, Rabb said. This characteristic, however, can become a curse because it speaks of no final authority and often leaves a vacuum that permits crude or hostile interpretations that hold sway with the unsuspecting.

Shiite Muslims, for their part, adhere to a broad norm of following a living expert interpreter of Islamic law (called a mujtahid), who can evaluate and refine Islamic values for contemporary circumstances. In the context of Iraq, that has proved a valuable asset in containing some violence. Ayatollah Ali al-Sistani's statements and fatwas (religious rulings) even since the beginning of the conflict in 2003 directly prevented mass revenge killings on

a number of occasions. One of his fatwas this year called for restraint after Shiite-dominated Iraqi government troops and militias freed Tikrit and revealed mass grave sites that presented visceral evidence of June's massacre of hundreds, possibly thousands, of Iraqi soldiers at the nearby Camp Speicher, when the Islamic State overran the military base. The revelation had heightened the potential of revenge attacks against Sunnis because the Islamic State claims to represent and defend all Sunnis.

Besides exacerbating conflict, oversimplifying the underlying causes by laying the blame at the door of an entire religion can mean billions of aid dollars wasted in chasing a false premise, and opportunities missed in the meantime. Seeking to use moderate Muslim clerics superficially to counter extremist messaging, for example, may have little impact if the root of the problem lies elsewhere.

Solving the problem of violent extremism demands embracing the complexity of the problem over the simplistic black-and-white narratives used by extremists on both sides of the debate. Scholarly analysis, and the lived experiences of more than one billion Muslims, including myself, makes clear that violence committed by Muslims is not because of the faith. Once this is understood, the world can stop focusing misguided attention on one ostensible factor that has been twisted unrecognizably. With a more balanced approach, it's possible to demonstrate that violent extremism has no state or religion, and that all identities, ethnicities, and religions are part of the solution.

Manal Omar is an associate vice president for the Middle East and Africa Center at the United States Institute of Peace.



EXPLORING THE ISSUE

Can Islam Be Blamed for Inciting Terrorism?

Critical Thinking and Reflection

1. Do you think terrorism committed by Muslims receives greater attention than terrorism committed by other religious and ethnic groups? Why do you believe this is so?
2. Do you think the Koran is more susceptible to radical interpretation than the texts of other religions?
3. Do you think Islam is used as a justification for violence committed for other reasons?

Is There Common Ground?

There does appear to be common ground between the authors as both agree that the vast majority of over 1.5 billion Muslims in the world do not adhere to a violent religion. It is at this point, however, that they diverge greatly in their analysis of why a minority of Muslims become violent. For Ali, the answer lies in the Quran and Hadith, where she believes scripture and the life of the Prophet provide ample opportunity for interpretation legitimizing violent behavior.

Omar, on the other hand, explains the tiny violent minority through an analysis of the places from which they emerge—places wracked by colonial legacies, authoritarianism, violence, socioeconomic struggles, and political turmoil. Once one takes all of this into account, religion becomes a minor factor in the explanation. The focus of counterterrorism is thus also redirected away from the need to combat religious interpretations and toward those factors that encourage terrorists to seek a solution in violence.

Interestingly, in the case of President Trump, the rhetoric with which he campaigned appears to have subsided. He notably did not use the phrase "radical Islamic terrorism" on his trip to Saudi Arabia in May 2017. His new National Security Advisor, H.R. McMaster, is said to be opposed to the phrase. It seems that the pressures of high political office may have persuaded President Trump of the advantages of the Obama and Bush approach to the issue.

Additional Resources

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Huffington Post-Muslims are not Terrorists: A Factual Look at Terrorism and Islam

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The Heritage Foundation: Let's Call Islamic Terrorists What They Call Themselves, Lee Edwards

http://www.heritage.org/terrorism/commentary/lets-call-islamic-terrorists-what-they-call-themselves

The National Review: The Religious Sources of Islamic Terrorism

http://www.hoover.org/research/religious-sources-islamic-terrorism



Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Should the U.S. Withdraw Its Military from Afghanistan Immediately?

YES: Douglas A. Wissing, from "Trump Wants a New Afghan Surge: That's a Terrible Idea," *Politico Magazine* (2017)

NO: Luke Coffey, from "Afghanistan Has Been America's Longest War: Here's What Success Will Look Like," *Daily Signal* (2017)

Learning Outcomes

After reading this issue, you will be able to:

- Explain the rational for the initial U.S. intervention in Afghanistan in 2001.
- Explain the evolution of the U.S. role in Afghanistan.
- Explain the arguments for and against a continued U.S. role in Afghanistan.

ISSUE SUMMARY

YES: Douglas A. Wissing is an author and journalist who argues that after more than 15 years of involvement, the United States is fighting a losing battle in Afghanistan. The challenges and costs of continued operations, he believes, are just too great. President Trump simply needs to recognize that fact, cut the country's losses and withdraw.

NO: Luke Coffey, Director of the Douglas and Sarah Allison Center for Foreign Policy at the Heritage Foundation, believes that those who recommend withdrawal fail to recognize the successes that have already been achieved, as well as the continued need for the United States to support and assist the Afghani government and security forces. President Trump thus needs to maintain U.S. support into the foreseeable future or risk a resurgence of terrorism.

With the rubble still smoldering at the site of the World Trade Center in New York City and the Pentagon outside Washington, DC, in the aftermath of the 9/11 terrorist attacks, an angry President George W Bush told Vice President Dick Cheney, "We're at war, Dick. We're going to find out who did this and kick their ass." Americans overwhelmingly agreed with that sentiment. After the terrorist group, Al Qaeda, and the Taliban government of Afghanistan that had provided them refuge, were identified as the culprits, 82 percent of Americans favored military action. This level of support made the war In Afghanistan, the second most popular in U.S. history, trailing only the declaration of war against Japan after its attack on Pearl Harbor, Hawaii, in 1941 (97 percent).

Soon, U.S. troops, aided by a much smaller number of allied, mostly British troops, ousted the Taliban from power and put them and Al Qaeda to flight. Then, however, began the much more difficult task of "nation-building." The United States and its allies suddenly became responsible for creating a functioning government, providing nationwide security and for fostering

national unity among a historically fractious population. This was all made even more challenging when the war and subsequent occupation of Iraq that began in March 2003 diverted essential troops, funds, and attention away from Afghanistan.

This situation persisted for about five years until the following two changes occurred in 2008. The first was that the U.S. combat role in Iraq began to wind down. While the casualty figures for U.S. troops began to drop in Iraq, they had begun to increase in Afghanistan, with 100 troops perishing in 2008, the largest number of any year of the war to that point. Second was the election of President Barack Obama, who had campaigned on the message that the Iraq war had been a mistake that had served only to distract the United States from its essential counterterrorism operations in Afghanistan. He thus pledged to withdraw all combat troops from Iraq within two years and suggested increased resources for the Afghan operation.

It was not unexpected, therefore, when President Obama accepted a Pentagon request for an additional 17,000 troops, bringing the total to 70,000, even before he had received the recommendations of an Afghanistan policy review he had ordered on entering office (Landler, 2017). After the review was completed, the Obama administration announced there would be a "surge" of just over 30,000 additional troops to fight Al Qaeda and an increasingly resurgent Taliban. By the end of 2010, the total number of U.S. troops in Afghanistan had reached 100,000.

In June 2011, one month after Osama bin Laden was killed in a U.S. Special Forces raid in Pakistan, President Obama announced his intention to begin the withdrawal of U.S. forces from Afghanistan, claiming they had achieved their aims. He also announced his intention to gradually draw down U.S. forces until America could hand over security responsibilities to the Afghan government, hopefully by 2014. With still nearly 30,000 troops in the country by mid-2014, President Obama announced a new plan to withdraw virtually all of the remaining troops by the end of his second term in 2016. However, in a reversal of this policy, he announced in October 2015 that the security situation remained too fragile to leave completely and so just under 10,000 U.S. troops were to remain for counterterrorism operations and to help train and advise the Afghan security forces.

President Trump has thus inherited a deteriorating situation in Afghanistan. Despite the surge of troops during the previous administration, Afghanistan remains one of the world's most corrupt, poor, and fragile states. The Taliban has expanded its territory in recent years and the Afghan forces are struggling to cope. While a private citizen, President Trump tweeted his disapproval of the Afghan war on numerous occasions, usually railing against the outrageous cost of the intervention, the unnecessary deaths of U.S. troops and the sense that the Afghans did not really want outsiders there. During his candidacy, however, he became more circumspect, arguing that the country would collapse if there was a quick withdrawal. As he announced in his Afghan strategy speech on August 21, 2017, he was tempted to "follow his instincts and withdraw," but the responsibilities of the Oval office had weighed heavily on him—thus convincing him that the U.S. presence would have to continue and even be strengthened. He also criticized his predecessor for placing a timetable on the surge and withdrawal of troops, which he argued had signaled to the Taliban that they needed only to outwait them. Finally, he declared the days of using U.S. troops for nation-building and spreading democracy to be over. He called this approach "principled realism."

Though he implied that there would be an increase in U.S. troops for a primarily counterterrorism focused operation, the President did not declare how many, for how long, or what benchmarks would be used to decide when they could declare "victory" and return home. Do you think this is an appropriate strategy? Douglas Wissing, in the first article of this debate, argues that it is not. Wissing believes the United States lacks a basic strategy for achieving any meaningful outcome. If 100,000 troops could not make a difference just a few years ago, what will a few thousand more achieve today? Luke Coffey, on the other hand, argues that a withdrawal would sacrifice all the good that has been achieved so far and that more realistic expectations will allow the United States to feel more confident in continuing to protect those achievements.



YES

Douglas A. Wissing

Trump Wants a New Afghan Surge: That's a Terrible Idea

Someone Needs to Tell the President: The War in Afghanistan Cannot be Won

The convoy of MRAPs lumbered across the moonscape of central Helmand Province, the epicenter of America's futile, half-century-long effort to remake Afghanistan in its own image. Generations of American developers and soldiers intended to transform this austere landscape into a breadbasket and bastion of democratic values. Instead, they created the world's largest opium poppy plantation, the heartland of the thriving Taliban-led insurgency.

Beginning in 2009, 20,000 U.S. troops fought bloody, though inconclusive battles in Helmand, before withdrawing in 2014. During that withdrawal, a team of soldiers and I were buttoned up inside the massive armored gun-trucks, juddering down rutted tracks as Pashtun men beside the road scowled and glared at us. The Afghans clearly weren't valuing the American efforts. The navigator suddenly pointed—"IEDs." Veering right, the MRAP driver managed to use "fuck" as a verb, adverb, adjective, and noun in the same sentence. The tribesmen, yet unsubdued, were just waiting for their time.

The Taliban-led insurgency has grown at double-digit rates annually since 2005. The Special Inspector General for Afghanistan Reconstruction just reported to Congress that security incidents throughout 2016 and continuing into the first quarter of 2017 reached their highest level since 2007. The insurgents now control about half of the country. Taliban shadow governments operate in virtually every province, and control several of them, including Helmand. Insurgents are pressuring government centers across the country, including besieged Kabul, where a suicide bomber blew up a U.S. military convoy on the doorstep of the U.S. Embassy this week.

Afghanistan today remains the largest U.S. military foreign engagement. From the peak of about 100,000 boots on the ground during the Obama-era surge, there are still almost 10,000 U.S. troops in Afghanistan, plus up to 26,000 highly paid contractors for the Department of Defense and other agencies. Each soldier costs about a million dollars a year. Economists estimate the Afghan war has already cost U.S. taxpayers around a trillion dollars. For the 2017 fiscal year, U.S. military and State Department operations in Afghanistan are costing about $50 billion—almost a billion dollars a week. (As a reference, the initial budget request for operations against ISIS in Syria was only $5 billion.)

Now, the U.S. military is reescalating in Afghanistan. The Marines are back in Helmand Province. In April, the Pentagon requested "a few thousand" more troops, since upped to 5,000. The booms are getting bigger, too. On April 15, U.S. forces dropped the 22,000-pound MOAB, the largest non-nuclear bomb in the arsenal, on ISIS fighters in eastern Afghanistan. It is Surge 2.0.

As the Pentagon requests more troops and drops more and bigger bombs, it's important to assess the dangers of another surge. And to consider whether another U.S. escalation can turn around an unwinnable war. Will Surge 2.0 be consequential, relevant, and sustainable? Or will it be another futile chapter in an unwinnable war?

Reescalation faces a grim reality. After more than 15 years of U.S. warfare and "nation-building," Afghanistan's oxymoronic National Unity Government is a case study in dysfunction. Contorted by the enormous illegal opium industry, the Afghan government ranks among the world's most corrupt; 9th on the Fragile States Index that assesses states' vulnerability to conflict or collapse. The World Justice Project's 2016 Rule of Law Index ranked Afghanistan 111 out of 113 countries assessed. The poorly commanded and deeply infiltrated Afghan security forces are losing the war.

Despite more than $117 billion of U.S. development appropriations since 2002, Afghans remain near the bottom of virtually every column of the U.N.'s Human

Wissing, Douglas. "Trump Wants a New Afghan Surge: That's a Terrible Idea," *Politico*, May 2017. Copyright ©2017 by Politico LLC. Used with permission.

Development Index—infant mortality, life expectancy, caloric intake, per capita income, literacy, electricity usage, and so on. Increasingly alienated Afghans know they are being victimized by "phantom aid," wasted by pernicious greed in both donor and recipient countries. A USAID billboard in Kabul proclaiming women's rights in English and Dari inadvertently illustrated the failure: After more than a decade of billions being spent on mismanaged aid programs, only about 10 percent of Afghan females could actually read the billboard.

An Afghan museum director told me, "I believe in our government, but not our leaders. They are mafia, all mafia. And I am sorry, sorry, but your government did that. Mafia."

There is the human cost to again expanding the war in Afghanistan. Tens of thousands of Afghan combatants were casualties in 2016. Caught in the crossfires and bombings, Afghan civilians are dying in increasing numbers. The U.N. reported that in 2016 there were 12,000 war-related civilian casualties, including 923 children killed and 2,589 wounded. In 2016, 600,000 Afghans were displaced by the conflict, adding to the refugee crisis. Many Afghans blame the presence of foreign troops, strengthening popular support for the insurgents.

America's endless wars are ravaging our country's military sons and daughters, many of whom have endured multiple deployments. The VA is overwhelmed with post-9/11 wounded and disabled vets: more than 1,600 amputees from the wars; 327,000 vets with traumatic brain injuries; 700,000 vets who are 30 percent or more disabled. PTSD is rampant. Female veterans have suicide rates two to five times higher than civilian women.

U.S. soldiers on the ground in Afghanistan are increasingly frustrated with a lousy mission in a benighted country riven with tribal feuds and opium wars. In Hopeless but Optimistic, my second book on the Afghan conflict, I tell tale after tale of American soldiers out on dangerous missions with no overall strategy; no end game in sight; just endless, life-crushing war. One grizzled sergeant said to me, "You ask probably any of these infantry guys, and they'll say let's get the fuck out of here. This is a fucked place. What the fuck are we doing here?"

And there is the question of fiscal priorities for an administration that pledged "America First." Additional U.S. troops will require additional appropriations. Wasting more American blood and treasure on Afghanistan drains resources from other pressing national security needs, among them North Korea, ISIS in Syria, and threats in cyberspace.

Soldiers I met in Afghanistan complained about billions being spent on often-spurious development projects, while their own families back home were struggling. I encountered many officers desperately trying to reconcile their sense of duty with contempt for the extravagant U.S. support for the predatory Afghan government. I heard stories of officers leaving the service, seeking counseling to resolve their cognitive dissonance. One commander told me, "The U.S. military and the State Department and USDA and other agencies have definitely given this country a chance to form a government, to form an army, to form a police department and to provide some kind of governance to the people." He concluded enough was enough: "Now it's up to them. It's their country and they need to decide how they want to run it."

There is a truism that generals always fight the last war, but in the case of the unending Afghanistan war, the last one is still this one. It appears the generals want to reescalate with the same failed 21st-century way of war, which governmental and corporate beneficiaries have perverse incentives to continue. Military, intelligence, and development corporations need contracts. And elected officials need campaign contributions from those corporations' lobbyists.

But there are major challenges to continue the war. When Pentagon spokesmen requested more troops, they neglected to explain how a few more thousand soldiers could win the war when 100,000 didn't—especially with the increased threat of green-on-blue attacks by demoralized and infiltrated Afghan security forces. Beyond their short-term tactical impacts, the MOAB and other increased bombings are proving inconsequential. Indeed, the increased bombing may have the unintended result of further estranging the Muslim world from the United States, as well as enflaming the insurgency.

Even basics like logistics supply are perilous. Landlocked in a very bad neighborhood, Afghanistan is a quartermaster's nightmare. Supplies, including $600-a-gallon petrol and the weekly surf-and-turf dinners the troops have come to expect, have to come through Pakistan, with its bizarre ally–enemy relationship with the United States, or through the northern routes controlled by regimes demanding extortionate recompense.

The Trump administration has yet to formulate a strategy for Afghanistan. After the well-documented "nation-building" failures in Afghanistan and Iraq, counterinsurgency is now a discredited doctrine. "Counterterrorism light," as the current military operations are sometimes known, is less a strategy than a bundle of tactics with unknown outcomes.

After 15 years of failed war with duplicitous partners and often self-delusional strategies, more of the same won't yield a different outcome. The Afghan insurgency has continued to grow in strength and territorial control through it all; through years of measured U.S. military pressure; through the Obama-era full-bore counterinsurgency Surge 1.0 with a hundred thousand troops and billions of dollars of "nation-building" aid; then through the last years of the robustly resourced counterterrorism campaign with billions of dollars of equipment, supplies, and training for the Afghan security forces.

None of it has worked. Fighting the popularly supported Taliban-led insurgency has been like hammering mercury. As Gen. Stanley McChrystal said, "You can kill Taliban forever, because they are not a finite number." It's a cheap war for the insurgents, waged with soldiers who cost a few dollars a day, armed with old Soviet weapons and farm-fertilizer bombs, fighting on a home front of intractable mountains and searing deserts.

And the insurgents are patient. Taliban commanders have long told their fighters, "The Americans have the watches, but we have the time." While no one in Washington power circles is yet willing to officially say it, there is nothing the United States can do now to change the inevitable course of events. All that can happen is good money is thrown after bad; more lives destroyed after so many have been ravaged. It is time to accept the obvious: The war in Afghanistan is unwinnable. It is time for the United States to withdraw its troops, and let the Afghans sort out their own problems.

Douglas A. Wissing is an independent author, scholar, and journalist.



Luke Coffey

NO

Afghanistan Has Been America's Longest War: Here's What Success Will Look Like

Wednesday's terror attack in Kabul is a stark reminder of how brutal the war in Afghanistan still is. A suicide truck bomber drove near the German Embassy in Wazir Akbar Khan, the diplomatic heart of Kabul, and then detonated his bomb amid the morning rush-hour traffic. The blast killed at least 90 civilians and wounded another 400.

This wasn't the first such attack in Afghanistan, and it won't be the last. After almost 16 years of war in Afghanistan, it is only natural to wonder: How do we know if we are winning?

Winston Churchill, while serving as a young officer fighting the Pashtuns in the 19th century, explained the difficulty of winning the type of war he faced then and that the United States faces now in Afghanistan:

> There are no general actions on a great scale, no brilliant successes, no important surrenders, no chance for a coup de theatre. It is just a rough hard job, which must be carried through. The war is one of small incidents. The victory must be looked for in the results.

Some things never change. What was true in 1897 is as true in 2017.

When NATO ended its combat operations in Afghanistan and transitioned into a train, advice, and assist role in 2015, the usual fanfare associated with victory in war was notably absent. There were no triumphal parades, no formal surrender ceremony, and no heroic march into an enemy's capital.

This is not the Afghan way of war.

As Churchill wrote in 1897, "The victory must be looked for in the results."

In late 2001, just after the 9/11 attacks, there were two main goals in Afghanistan.

First, to deny al-Qaeda a safe haven from which to plan, train, and launch terrorist attacks on a global scale. Secondly, to remove the Taliban regime from power as punishment for not cooperating with the international community and for harboring terrorism—a sort of 21st-century version of a 19th-century punitive raid on the frontier. Both were accomplished with relative speed—it can even be argued that this was achieved by the summer of 2002.

As the years went by, the explanation for what U.S. forces were doing in Afghanistan shifted from America's raw national security needs to vague notions of nation-building and "bringing democracy." Consequently, the inability to produce what public opinion considers tangible and achievable results 16 years on has disappointed many.

Since our military intervention in 2001, we have focused on the quixotic goals of creating "a strong central government" and a "pluralistic society" in Afghanistan. We have tried accomplishing these goals by "holding free and fair" elections, "tackling corruption," and building the "institutions of democracy." If we fail to achieve these goals, we are presented with doomsday scenarios of "ungoverned spaces," the Taliban "back in power," and the establishment of new terrorist "safe havens."

But this black-and-white view of the situation doesn't work in a place like Afghanistan. It is a place with many shades of gray.

Frustrated Expectations

There is a complex middle ground in Afghanistan, and this is where we are today—and where we will likely be for the foreseeable future.

Few in the United States believe that we have been defeated in Afghanistan. They just think we haven't met the objectives they expected to be achieved—and that what we have achieved has taken too long and cost too much.

Coffey, Luke. "Afghanistan Has Been America's Longest War: Here's What Success Will Look Like," *The Daily Signal*, June 2017. Copyright ©2017 by The Heritage Foundation. Used with permission.

This is not an unreasonable view. We have been fighting in Afghanistan for almost 16 years and will likely have some form of military involvement there for at least 16 more.

An 18-year-old soldier serving in Afghanistan today was only 2 years old at the time of the 9/11 attacks. Thousands of U.S. troops have been killed and wounded and just shy of $1 trillion has been spent.

For years, especially in the earlier days of the war, successive U.S. commanders thought that if one more road could be paved, one more school built, or one more hospital constructed, America could leave Afghanistan just that much better.

Over the years, this focus on nation-building—however well intended it might have been—resulted in expectations set so high in Afghanistan that even obvious successes on the security front were not considered good enough.

This created an impossible situation for the U.S. military. With the lofty goals of nation-building defining our success in the early days, the only thing most people see today in Afghanistan is failure.

However, a closer look at the situation shows that much has actually been achieved.

Successes Thus Far

After the successful targeting of Taliban leaders, combined with a robust counterinsurgency campaign over the years, the group as a national movement has degenerated into several smaller, weaker, and localized insurgencies—each with a different set of grievances and goals.

Even with today's horrific attack in Kabul, the level of violence in Afghanistan is nowhere close to its peak in 2011–2012. Al-Qaeda, which once used Afghan territory with impunity, no longer enjoys a safe haven in Afghanistan from which to plan and launch terror attacks on a global scale.

The threat posed to Afghanistan by the Islamic State isn't even close to being in the same league as the Taliban, and pales in comparison to the terror group's other affiliates in Syria, Libya, and Yemen.

No major terrorist attack originating from Afghanistan has been successful in the United States since 2001.

The Taliban that rolled into Kandahar in 1994 with tanks and planes is a shadow of its former self today.

In 2001, outside of a small rump of territory run by the Northern Alliance in northeast Afghanistan, the Taliban controlled the entire country. Today, according to the Special Inspector General for Afghanistan Reconstruction's most recent quarterly report to Congress, the Taliban has "control or influence" in only 11 out of 407 districts across Afghanistan, equaling only 9 percent of the country's population. By contrast, 66 percent of Afghanistan's population live under the "control or influence" of the Afghan government. The remaining 25 percent of the population lives in "contested" areas.

After 16 years of warfare, maybe we should come to terms with the fact that until there is a genuine political settlement between all warring parties, and Pakistan stops providing succor to the Taliban, this might be as good as it's going to get.

So What Does Success Look Like in Afghanistan?

Success in Afghanistan is not when 100 percent of its districts are under the complete control of the Afghan government or when there are no more suicide bombings. Nor is success in Afghanistan achieved when every road is paved, every girl goes to school, or everyone gets the right to vote. These things are very important in themselves, and we should aspire to them, but they are neither the reasons why we went to Afghanistan nor the reasons why we should remain there.

Success is achieved when there is a stable enough Afghanistan—when it is able to manage its own internal and external security to a degree that stops interference from outside powers, allowing the country to resist the establishment of terror bases that were there before.

Nothing more and nothing less.

Realities on the Ground

The American public has every reason to be proud of what the U.S. military has accomplished under very challenging circumstances in Afghanistan. It is time that we have a dose of realism of what to expect in Afghanistan and lower our expectations on what is achievable for the future. Afghanistan won't be perfect or suddenly become some Switzerland in the Hindu Kush. Unless you are some idealistic dreamer who has never stepped foot in the country, this was never the goal.

For the rest of my life, there will be an insurgency in some form in the Pashtun heartland of the country. This doesn't mean that the United States has failed. It is simply a reflection of the reality on the ground and in the region. India, arguably the world's largest democracy, fights two major insurgencies inside its borders today—as we were reminded last month when Maoist insurgents killed 25 Indian troops in Chhattisgarh. Through local deals

brokered by various tribes, it is inevitable that the black flag of the Taliban will be seen flying in places where U.S. troops were previously fighting and dying just years before.

Deals will be done between local factions that most reasonable people back in the United States would find incomprehensible, if not appalling. Allegiances between local Afghan tribes will change according to the direction in which the tide of success is seen to be flowing at the time.

This is not defeat. This is reality. This is the peculiar Afghan way of warfare in what is a deeply tribal society.

The Afghan military is far from being perfect, but that was never the goal. The goal is to get the forces to a capability where they can manage the insurgency themselves, without tens of thousands of Western troops on the ground. Paraphrasing Lawrence of Arabia on the Arabs in his famous 27 Articles of 1917, it is better that the Afghans do it tolerably than we do it perfectly.

A Steady Support

If the West continues to mentor, train, and fund the Afghan military, then the Afghans will be able to take on the insurgency themselves. Eventually, this will establish the security conditions inside which a genuine political process can take place between Afghans, the Afghan way. This is why President Donald Trump's upcoming decision to at least maintain, or even increase, the number of U.S. advisers and mentors is so important. One only has to look at what happened in Iraq when President Barack Obama withdrew all U.S. forces to understand why.

With each successful Taliban attack, the inevitable headlines immediately appear about America's failures in Afghanistan. But we cannot start seeing every tactical victory of the Taliban as America's strategic defeat. There will be many more successful attacks like the one seen Wednesday in Kabul. This is a unique kind of war, one in which the enemy has no problem killing himself to kill others and, for spiritual reasons, actually looks forward to the opportunity. We need to start measuring success by achievements on the ground and not by unrealistic expectations. We also have to realize that patience is required. Success in Afghanistan will be measured in years and decades, not 24-hour news cycles and 140-character-long tweets. It won't be pretty, and there will be setbacks—after all, as Churchill reminds us: "It is a rough, hard job."

Luke Coffey is a director of the Douglas and Sarah Allison Center for Foreign Policy at the Heritage Foundation.



EXPLORING THE ISSUE

Should the U.S. Withdraw Its Military from Afghanistan Immediately?

Critical Thinking and Reflection

1. Do you think the intervention in Afghanistan was necessary to prevent further terrorism after the 9/11 attacks?
2. Is nation-building sometimes necessary to protect U.S. interests?
3. Has the U.S. intervention in Afghanistan made the terrorist threat worse?
4. Would a complete withdrawal sacrifice the gains that have been made in human rights in Afghanistan, particularly women's rights?

Is There Common Ground?

It is hard to identify any common ground between the authors in this debate. It is apparent that while one sees the glass half full, the other sees a hole in the bottom of the glass! Luke Coffey understandably does not want to see the United States and International community sacrifice the hard-won gains that they have achieved in Afghanistan. He believes that the unrealistic expectations created in the aftermath of the quick regime change that took place in late 2001 have damaged the overall perception of those achievements. It is thus a moral imperative for him that the gains made for the Afghani people, as well as for the United States, not be sacrificed on the altar of what was always unachievable.

Douglas A. Wissing, on the other hand, sees a glass with no bottom. An intervention lacking a strategy—that can only waste more lives and money, both American and Afghani. In fact, for Wissing, the intervention is making things worse. Interestingly, the 2016 report by the U.S. Special Inspector General for Afghanistan Reconstruction found the strategy utilized in previous years had worked in the short term, but had eventually "undermined the [Afghan] government, alienated Afghans and further pushed Afghanistan into a collection of fiefs run by strongmen whose interests cut against American aims" (Fisher and Taub, 2017). Add to that the competing interests of the regional countries and the sense of futility becomes palpable.

So, was President Trump correct to ignore would ignore his instincts and decide to maintain a U.S. troop presence? He appears to be trying to thread the needle between not allowing Afghanistan to collapse, while convincing his supporters that he remains a sceptic of intervention and nation-building. The question is—Is this a viable long-term strategy?

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Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Is Closing the Prison for Alleged Terrorists at the U.S. Naval Base, Guantanamo, Cuba Justified?

YES: Elisa Massimino, from "Testimony During Hearings on 'Closing Guantanamo: The National Security, Fiscal, and Human Rights Implications,'" *U.S. Senate* (2013)

NO: Frank J. Gaffney, Jr., from "Testimony During Hearings on 'Closing Guantanamo: The National Security, Fiscal, and Human Rights Implications,'" *U.S. Senate* (2013)

Learning Outcomes

After reading this issue, you will be able to:

- Understand the difference that the U.S. government makes between "enemy combatants" and "prisoners of war" and how each group is dealt with by the United States.
- Evaluate the charge that many or even all the prisoners at Guantanamo Bay are being denied such basic rights as the right to be charged, to have a trial, and to see the evidence against them.
- Evaluate the debate that most prisoners at Guantanamo Bay are not dangerous.
- Explain the domestic legal and political problems President Obama faces to fulfilling his pledge to close the detention center at Guantanamo Bay.

ISSUE SUMMARY

YES: Elisa Massimino, president of Human Rights First, a U.S.-based advocacy organizations urging U.S. global leadership on human rights, tells Congress that there are tough questions to resolve regarding closing the U.S. prison at the Guantanamo Bay Naval Base, but that it is possible to close the facility with smart and sustained leadership from the president and Congress.

NO: Frank J. Gaffney, Jr., president of the Center for Security Policy, a private analysis and advocacy organization, maintains that the United States is at war with terrorism and in that struggle Guantanamo Bay is the optimal location for U.S. detention and interrogation of terrorists and associated unlawful enemy combatants.

The U.S. Naval Base at Guantanamo Bay, which houses the detention center at issue in this debate, is something of an anomaly. Located on the southern coast of Cuba near the eastern end of the island, Gitmo, as the 45-square mile base is often called, is a relic of both colonialism and the Cold War. Whatever the legalities of Cuban sovereignty, the United States first acquired possession of the bay and its surrounding area during the Spanish-American War of 1898. One result of Spain's defeat was that Cuba achieved independence in 1902. It was only a limited independence, though, because as a condition for the withdrawal of their troops, the Americans insisted that Cuba's new constitution grant the United States the right to supervise its finances and foreign affairs. Washington also required that Cuba lease land for a Guantanamo Bay to the United States. That was extended in 1934 by a U.S–Cuba treaty to include a perpetual lease.

After the revolution that brought Fidel Castro's communist government to power in 1959, he argued that the leases in 1903 and the 1934 treaty were void because they had been imposed on Cuba in a patently unequal relationship with the powerful United States. Castro certainly had at least an arguable point, but the politics of the Cold War and other factors have made it certain that successive U.S. president from Dwight Eisenhower to Barack Obama have maintained the U.S. claim to Gitmo. The yearly lease is $4,085. Cuba does not cash the checks. The base has never played a substantial role in U.S. military operations, and in an era of aircraft carriers and other long range weaponry, its role in U.S. national security is marginal at best. The less than 10,000 U.S. military personnel stationed there are needed more to operate the facilities and guard against a Cuban takeover.

The status of Gitmo rose from a national security backwater to a matter of national debate after 2001 as a result of the 9/11 attacks on the United States and the ensuing war on terrorism, including the U.S. invasion of Afghanistan. During the operations there and elsewhere the United States and its allies captured a substantial number of al Qaeda members and other alleged terrorists. This created a problem. The treatment of another country's military prisoners of war (POWs), including captured members of irregular forces such as guerillas, is governed by a series of treaties collectively called the Geneva Conventions (1864, 1929, 1949, and 1949). Generally, POWs may not be tried or punished for the acts they have committed in combat. The treatment of "home-grown" terrorism and terrorists (those who commit terrorist acts in their own country and have no global ties) is subject to their country's laws, and such terrorists are tried in their country's general court system. Captured international terrorists, arguably even including those who commit their acts of terrorist within their own country at the behest of or through association with an international terrorist organization, occupy an uncertain status between the clearly defined spheres of prisoners of war and domestic criminals.

The U.S. decision was to send most captured al Qaeda members and other alleged terrorists to the U.S. naval base at Guantanamo Bay, Cuba to be housed at a detention facility opened in January 2002. The administration of President George W. Bush argued that these prisoners were not members of an organized military and set up military commissions (tribunals) to try them. Defendants at Gitmo being tried by military commissions did not have many of the protections available to anyone, not just Americans citizens, held in U.S. prisons or tried in U.S. civilian courts or POWs tried in military courts martial. This difference was challenged by one prisoner, and the Supreme Court ruled in *Hamden v. Rumsfeld* (2006) that the president had exceeded his authority by unilaterally establishing the military commissions. But Congress closed that defense by passing the Military Commission Act (MCA) in 2006 allowing the special tribunals.

As a candidate for president in 2008, Barack Obama deplored the use of military commissions as a "dangerously flawed legal approach," and he also promised to end the confinement of terrorists at Guantanamo Bay and transfer them to prisons in the United States. On his third day as president, at first, Obama moved to fulfill his campaign pledges but strong public opposition, a law passed by Congress barring bringing prisoners from Gitmo into the United States, and other difficulties soon led Obama to renew the use of military commissions and continue the operations of the prison.

Since 2002, a total of 779 prisoners have been held at Gitmo, some since the prison opened. Most of the 779 have been released or transferred to other countries for detention. This includes the five prisoners swapped in 2014 for the release of Bowe Bergdahl, a U.S. soldier captured in Afghanistan by the Taliban. Nine prisoners have died, most by suicide. Only eight have been tried and convicted by a military commission and another by a regular federal court. As of late 2012, 149 prisoners remain in custody. Of these, about half will be released if another country will accept them. The rest are presumably awaiting trial or are considered so dangerous that the United States refuses to release them even though (to protect intelligence sources) it lacks evidence that it is willing to present in court to convict them. There have been widespread accusations that some detainees have been subject to waterboarding and other treatment that critics charge range from abuse to torture. There is little doubt that at least some of the charges are accurate, although the U.S. government maintains that many of the charges are untrue, overwrought, and/or do not constitute torture.

In the YES selection that follows, Elisa Massimino contends that Guantanamo is a symbol for many around the world of torture, injustice, and illegitimacy, that Americans as a nation cannot be separated from what they do, that the prison should be closed, and that the detainees should be tried and convicted or released. Frank J. Gaffney, Jr., argues that not only is it desirable and necessary to continue to incarcerate detainees at Guantanamo Bay, but the United States should add to their number if that will help gather vital intelligence and keep dangerous jihadist enemy combatants off the battlefield.

YES

Elisa Massimino

Testimony During Hearings on "Closing Guantanamo: The National Security, Fiscal, and Human Rights Implications"

Introduction

My name is Elisa Massimino. I am the President and Chief Executive Officer of Human Rights First. Human Rights First is one of the nation's leading advocacy and action organizations. We believe that upholding human rights is not only a moral obligation; it is a vital national interest. America is strongest when our policies and actions match our values. For 35 years, Human Rights First has worked to ensure that our country is a beacon on human rights in a world that sorely needs American leadership.

Since 9/11, much of our work has focused on ensuring that our country stays true to its values, even as it confronts the threat of terrorism. We know from our 35 years of work around the world that what the United States does—particularly on human rights—matters deeply. In the aftermath of WWII, it was an American—Eleanor Roosevelt—who led the effort to develop a global consensus on the inherent rights and dignity of all people. Now, as then, American leadership is essential to build a world in which those universal rights are universally respected.

That is why we have focused so much of our energy and attention on getting this right. For the last decade, Human Rights First has . . . challenged arbitrary detention, torture and other cruel treatment in the wake of post-9/11 abuses. We have worked for the restoration of habeas corpus. We have served as official observers to every military commission convened at Guantánamo. And we have published a series of groundbreaking reports on Guantanamo and other aspects of U.S. detention policy. Our report, *In Pursuit of Justice: Prosecuting Terrorism Cases in the Federal Courts,* concludes that the federal system has capably handled important, complex, and challenging international terrorism cases without compromising national security or sacrificing rigorous standards of fairness and due process.

Closing Guantanamo has proven to be more difficult than many anticipated. There are tough questions to resolve, to be sure, but it is possible to close the detention facility with smart and sustained leadership from the President and Congress. Our new paper, *Guantanamo: A Comprehensive Exit Strategy,* which we are releasing today, provides a roadmap for closing Guantánamo, with practical guidance on how to address the challenges of risk management raised by transferring detainees out of the facility.

I. Why We Need to Close Guantanamo

In a world that for many is characterized by tyranny, war, and injustice, the United States stands as a beacon. Despite our many failings, the United States has a long history of advancing human rights, having played a leading role in developing the international laws and standards that define and enforce them, and continuing today by protecting refugees and supporting human rights defenders on the frontlines of the struggle for freedom in many countries around the world. Domestically, respect for freedom, democracy, and the rule of law defines our political culture and constitutional system, setting an example for people around the world who seek to advance democracy and human rights in their own societies.

A glaring exception to this narrative is the post-9/11 abuses committed by our government, defined largely by Guantanamo and the torture of detainees in U.S. custody. It's hard to overstate how much this has undermined our country's moral standing and credibility. In my role as the head of an international human rights organization, the scenarios in which I most often hear about Guantanamo are not in our domestic political debates here at home or in our courts. I hear Guantanamo raised by officials of repressive governments who use it to deflect criticism of their own policies by charging hypocrisy. And I hear about Guantanamo from human rights defenders around the world who tell me that the best thing the United States can do to support their bids for freedom and democracy is to make sure that our country can lead by example, including closing Guantanamo. Three years ago, I brought

Massimino, Elisa. from Testimony During Hearings on "Closing Guantanamo: The National Security, Fiscal, and Human Rights Implications," *U.S. Senate,* July 24, 2013.

two dozen human rights and democracy activists from around the world to the White House to meet with President Obama, and that's exactly what they told him.

The ability of the United States to credibly push other governments to respect human rights is seriously compromised when we have failed to correct the post-9/11 abuses that have cast a shadow on America's foreign policy over the last decade. And that shadow will continue to loom large until Guantanamo is closed, and the policies of indefinite detention and military commission trials are ended.

There have been instances in the life of our relatively young country when we have pursued policies out of fear that we later realize are inconsistent with our values. Sometimes it takes hearing the perspective of those outside our national community, who know the values for which we hold ourselves out, to remind us of who we are. Consider the perspective of some family members of Guantanamo detainees. Several have written letters to you in advance of this hearing, and I want to read two excerpts from them.

Nabil Hadjarab is an Algerian man who has been detained at Guantanamo for over a decade without charge or trial. He has been unanimously cleared for transfer by our government's security and intelligence agencies. Here's what his uncle Ahmed Hadjarab wrote:

> I must admit that my perception of the United States of America has been severely tarnished by this issue. When in 2002, I was told that Nabil was detained by the Americans, I thought that at least he would have a right to a fair trial. I thought his rights would be respected and that justice would prevail. What I feel today is mostly incomprehension. How can this nation, one that prides itself of defending Human Rights, close its eyes to these violations of its founding principles?

Hisham Sliti from Tunisia has been held in Guantanamo for more than a decade without charge or trial. He has also been cleared for transfer. His mother, Maherzia Sliti, wrote:

> One of the worst things is the uncertainty, and the false hope that things are about to change. Sometimes I hear rumors that men have been released from Guantanamo and that Hisham is one of them. I miss and love my son so much that although my mind knows the rumors are probably false, my heart believes them every time. And every time I am devastated when I realize he is not coming home. I do not understand why my son is still in Guantanamo after all these years, when we know he has been cleared. We never thought the United States was the kind of place where people could be held like this.

These excerpts come from letters collected by Reprieve, a human rights organization that currently represents 15 prisoners in Guantanamo Bay and has provided assistance for many more. Attorneys and family members of Guantanamo detainees submitted the full versions of these and other letters to the hearing record. I encourage you to read them.

I raise these issues of justice and America's moral standing in the world because I want to be clear that what's at stake in figuring out a way to close Guantanamo is our ability to lead by example, and our reputation for upholding justice and the rule of law.

There are some who say that we need Guantanamo to hold and interrogate detainees that can't be tried in civilian court because they were captured by our military on the battlefield. But the military has never needed Guantanamo for battlefield captures; those detainees have typically been held in detention facilities in theater. Moreover, the vast majority of terrorism suspects captured abroad are dealt with by the security and law enforcement services of our foreign counterparts, and that's how it should be. Since 9/11, more than 120,000 suspected terrorists have been arrested around the world, and more than 35,000 have been convicted. Our military cannot—and should not—be the world's police force or jailor.

In cases in which we have needed to detain, interrogate, and jail terrorism suspects, our civilian system has handled these cases remarkably well. Since 9/11, civilian federal courts have handled nearly 500 cases related to international terrorism, including at least 67 where suspects were captured abroad, often in inhospitable environments. Despite claims to the contrary, there is no credible evidence that trying these cases in civilian courts has caused breaches of sensitive national security information, or invited attacks on U.S. soil.

Nor does the civilian process preclude us from obtaining actionable intelligence to disrupt terrorism plots. The administration has established a High-Value Interrogation Group (HIG) that has been deployed in a number of cases to interrogate terrorism suspects using lawful and effective methods. Even in more routine terrorism cases, and in situations where Miranda rights [such as the right no to answer question and to be represented by a lawyer] and other due process protections are respected, offering plea deals and working with the defendant's family and lawyers, in addition to lawful interrogations, have produced

a wealth of actionable intelligence information, including: telephone numbers and email addresses used by al Qaeda and other terrorist groups; information about al Qaeda communications methods and security protocols; information about their recruiting and financing methods; the location of al Qaeda training camps and safe houses; information on al Qaeda weapons programs; the identities of operatives involved in past attacks; and information about future plots to attack U.S. interests.

By contrast, detention and trial at Guantanamo has proven highly problematic on several levels. Since 9/11, only 7 detainees have been convicted by military commission. Two of those convictions were recently overturned by a federal appeals court because the crimes with which the detainees were charged were not war crimes—the only acts over which military commissions have jurisdiction—at the time the offenses were committed. More broadly, in contrast to the civilian system, in Guantanamo—where detention is indefinite and Congress has made it difficult to effect transfers out of the prison—there is not the same kind of leverage (e.g., offering release or shorter detention in exchange for cooperation) to exploit with detainees.

There are other pragmatic reasons to move forward with closing Guantanamo. The impending end of combat operations in Afghanistan in 2014 increases the urgency for Congress and the administration to determine the disposition of all law-of-war detainees. The detainees at Guantanamo were apprehended and detained pursuant to the 2001 Authorization for Use of Military Force. As hostilities come to an end, Guantanamo detainees will have a legitimate claim before the courts that they should be released. Congress and the administration should proactively determine the lawful disposition of detainees now, or the courts could force those dispositions later.

There has long been a national security consensus that Guantanamo should be closed. More than 50 retired generals and admirals, along with three Secretaries of Defense—[Robert] Gates, [Leon] Panetta and [Chuck] Hagel—have called for Guantanamo to be closed. Today's witnesses underscore that many senior military leaders believe that closing Guantanamo is a national security imperative.

As a national security issue, closing Guantanamo should be beyond politics. And it has been in the past. In 2008, there was significant bipartisan consensus that Guantanamo should be closed. Then-President [George W.] Bush said he wanted to close Guantanamo, as did then-candidates [Barack] Obama and [John] McCain. That consensus has started to re-emerge, with Senator McCain recently stating that Guantanamo should be closed, and emphasizing that it would be an "act of courage" to transfer detainees out of Guantanamo and into the United States as part of a plan to close the facility.

And Guantanamo can be closed—safely and securely. This is not to say that closing Guantanamo will be easy—if it were, Guantanamo would already be closed. There are difficult legal, practical, and political problems that must be addressed to move forward.

But there is a pragmatic path forward to close Guantanamo, if the administration and Congress demonstrate sustained and focused leadership to get the job done.

I want to spend a few minutes outlining this path forward.

II. A Comprehensive Plan for Closing Guantanamo

In 2009, President Obama signed an executive order establishing an interagency taskforce to conduct a review and recommend lawful dispositions of the detainees being held at Guantanamo. Since then, 72 prisoners have been transferred, repatriated or resettled, and a number of other detainees have died—either by suicide or other causes—bringing the current detainee population down to 166. Transfers have stalled in part because of restrictions imposed by Congress in 2010, 2011 and 2012, and because the administration has failed to exercise the authority Congress gave it in 2012 under the National Defense Authorization Act to waive the transfer restrictions by invoking, among other requirements, national security interests.

Concerns about recidivism—the possibility that a released detainee may "return to the fight"—are understandable, as they are in the criminal context. But, as many analysts have detailed, the claims about recidivism of detainees who have already been released are inflated. The claim by members of Congress and some in the media that 28% of former Guantanamo detainees have "rejoined the fight" or "returned to the battlefield" is highly misleading. It appears to be based on unreliable or unconfirmed reports of suspected activities, and in any event includes detainees that may not have participated in any terrorist plots or attacks. The process to evaluate potential transfers has changed since the prior administration to more accurately capture post-transfer risk, leading to fewer cases of recidivism for detainees transferred by the Obama administration. The Director of National Intelligence's recidivism assessment should be revised to more accurately reflect the circumstances in which former detainees

that have engaged in terrorist plots or attacks against the United States so that evaluation—and mitigation—of this risk is grounded in reality, not hyperbole.

Nonetheless, as senior military commanders have told me, transfers of detainees from Guantanamo—just as transfers of detainees out of detention facilities in Iraq and Afghanistan—have always been about risk management, not risk elimination. Some detainees pose little risk; others will pose more. Establishing a "zero tolerance for risk" policy with respect to individual detainees is neither wise nor necessary. Our military, intelligence, law enforcement, and diplomatic agencies, along with those of our foreign counterparts, can significantly mitigate the risks of transferring detainees out of Guantanamo through security assurances, monitoring, rehabilitation and other reasonable measures. The risks associated with keeping Guantanamo open are harder to mitigate, and the harm is potentially far more lasting.

A. Disposition of the 86 Detainees Cleared for Transfer

Of the 166 detainees remaining at Guantanamo, 86 have already been cleared by all relevant law enforcement, defense, and intelligence agencies for transfer back home or to third countries. The United States has determined that those men should neither face trial nor be detained, and many were cleared for transfer by both the Bush and Obama administrations. Several of these men have languished at Guantanamo for more than eleven years, even as their home countries have demanded their return. To successfully transfer all or most of these 86 detainees, the administration should take the following steps.

The Secretary of Defense should certify transfers and issue national security waivers to the fullest extent possible consistent with applicable law. The current set of certification requirements, coupled with the national security waiver, provides the administration with the authority to transfer many, if not all, of the 86 detainees who have already been cleared for transfer. In most cases, security assurances from, or changes in the political or security context in, the receiving country can be read to satisfy the remaining certification requirements that cannot be waived under the national security waiver. Efforts to negotiate any required assurances should begin immediately and be given the highest priority under the direction of the Secretary of Defense, in concurrence with the Secretary of State and in consultation with the Director of National Intelligence, pursuant to the required statutory guidelines.

The administration should begin transferring individuals to Yemen on a case-by-case basis, while also expeditiously developing a rehabilitation program there that could facilitate transfers of cleared Yemeni detainees en bloc. Fifty-six of the 86 detainees cleared for transfer are from Yemen. Of those 56, 26 are cleared for transfer without conditions, and may be transferred now that the moratorium on transfers to Yemen has been lifted. The remaining 30 are conditionally cleared for transfer, and may be transferred with improved security conditions in Yemen, an appropriate rehabilitation program, or where third-country resettlement becomes an option.

The administration should transfer home the 17 cleared detainees who are from countries that have requested their return (other than Yemen, which has also requested its citizens back). Countries that have demanded the return of their cleared citizens include: Afghanistan (4), Algeria (5), Libya (1), Saudi Arabia (2), and Tunisia (5). However, in accordance with U.S. non-refoulement obligations, where there are substantial grounds for believing that a detainee would be in danger of being subjected to torture or other forms of mistreatment if returned home, the administration should resettle such detainees in third countries. [Non-refoulement is a standard of international law that forbids handing over someone who is being persecuted (not simply prosecuted) to the persecutor(s).]

The administration should transfer to third countries (including, possibly, the United States) the three Uighur detainees who cannot be repatriated to China based on their well-founded fear of persecution. [Uighurs are an ethnically Turkic, mostly Muslim people living in northwestern China.] The Uighurs are not part of al Qaeda, the Taliban or any "associated forces," and do not pose a material threat to the United States. U.S. federal courts have ordered their release. Moreover, resettling such detainees here would place the United States in a stronger position to negotiate transfers of other detainees to third countries by demonstrating a willingness to share in the responsibility of resettlement.

The administration should transfer home the five men whose countries have not, at least publicly, asked for their citizens back, including men from Mauritania, Morocco, the Palestinian Territories, Tajikistan, and the United Arab Emirates. These detainees should be repatriated home if their countries are willing to accept them and transfers can be effectuated consistent with non-refoulement obligations. If that is not possible, they should be resettled in third countries. Finally, the administration should transfer to third countries the four Syrian detainees and one Sudanese detainee who cannot be repatriated

because federal law prohibits transfers to Syria and Sudan as state sponsors of terrorism.

Congress has a role to play in facilitating the responsible closure of Guantanamo. The annual defense bill reported out of the Senate Armed Services Committee presents the opportunity for a compromise approach on the resettlement or repatriation of detainees. While it requires the Secretary of Defense to take steps to mitigate the risks of transfer and to consult with Congress about decisions made, it properly places such decisions with the defense and intelligence agencies that are better situated than Congress to make those decisions. This legislation places unnecessary restrictions on the President's ability to close Guantanamo, but it is certainly an improvement on the current absolute bar on transferring detainees to the U.S.

B. Disposition of the 34 Detainees Suspected of Criminal Conduct and Slated for Prosecution

The Guantanamo Review Task Force designated 34 of the remaining 166 detainees at Guantanamo as eligible for prosecution before either a federal court or military commission. Recent federal appellate court decisions have overturned two military commission convictions because the crimes for which the detainees were convicted—material support and conspiracy—were not internationally-recognized war crimes at the time of the offense.

As a result, there may now be only twenty men who could face trial by military commission, though they and other detainees in this category could possibly face prosecution in an Article III [of the U.S. Constitution] federal court should Congress permit transfers to the United States for prosecution. In addition, the current 9/11 cases and the case of the alleged USS Cole bomber before military commissions have been beset with scandal (the CIA was discovered to have the ability to censor the proceedings) and legal uncertainty (the presiding judge could not even rule whether the constitution applies). [The courts in the central three-tier system of federal courts (district courts, the circuit courts of appeals, and the U.S. Supreme Court) are all established under Article III of the Constitution. Military commissions and other military courts marshal and some other federal courts are Article II courts, created under the powers of Congress.]

In order to resolve the cases of the 34 detainees in this category, Congress should pass the Senate version of the National Defense Authorization Act (S. 1197), reported out of the Armed Services Committee, which removes the ban on use of Pentagon funds for transfers to the United States for prosecution, incarceration and medical treatment. The administration cannot currently issue national security waivers to ensure prosecution of these detainees; Congress must act. If transfers to the United States are again allowed, the administration should transfer those already facing military commissions at Guantanamo to military commission trials in the United States in order to facilitate the closing of Guantanamo. Military commissions should be used only to resolve the legacy cases at Guantanamo, not to supplant Article III federal courts, which have proven more muscular and adept in counter-terrorism prosecutions. Article III courts have four times the number of substantive criminal laws available to them for use against terrorism suspects—not to mention more than two hundred years of experience and precedent on which to rely.

The administration should therefore transfer any remaining detainees who can be charged with crimes to a civilian court in the United States, or to an appropriate foreign jurisdiction, where such transfers can be made consistent with applicable law. Ahmed Ghailani, a former Guantanamo detainee, was transferred to the Southern District of New York, convicted, and is now serving a life sentence.

The administration should transfer those already convicted to any appropriate high security federal prison, which can safely house detainees. There are 355 terrorism convicts serving sentences in United States federal prisons, including the only 9/11 defendant to stand trial—Zacarias Moussaoui—who was convicted in federal court and sentenced to life in prison as the alleged 20th hijacker on 9/11. Three Guantanamo detainees have already been convicted by military commission and are serving sentences at Guantanamo. Those who suggest that detainees who have served their sentence would be set loose on the streets of America are misinformed. Any such person would be subject to mandatory deportation.

C. Disposition of the 46 Detainees That Have Neither Been Charged with a Crime Nor Been Cleared for Transfer

The remaining 46 out of 166 detainees being held at Guantanamo will either have to be charged with a crime or, eventually, be released within some reasonable period of time at the end of combat operations in Afghanistan or some other appropriate marker of the end of hostilities. That is what is required under the laws of war and our Constitution, and it is what we have done at the end of

past conflicts. The United States transferred 10,000 prisoners to the Iraqi government at the end of the Iraq war, and has already transferred control of thousands of detainees in Afghanistan to that country's government. Finding a reasonable, lawful disposition for this group may be more challenging, but it is not insurmountable.

First, the administration must initiate the Periodic Review Board [PRB] hearings pursuant to Executive Order 13567 for eligible detainees immediately under the direction of the Secretary of Defense. No congressional action is needed to do this. These hearings should be completed in a timely and effective manner to determine whether each detainee is eligible for transfer. In an encouraging development, the Pentagon has announced that PRB hearings will begin soon, though it has not said when, or established a timeline for completing the hearings.

The Periodic Review Boards should, consistent with the interests of national security, afford detainees access to evidence, counsel and other markers of due process to ensure a thorough and accurate review. The boards could determine that some number of men in this group is now eligible to be transferred because new evidence has surfaced, the political situation in their country has improved, their networks of influence have degraded, their health has deteriorated, or other factors, such that they no longer pose a significant risk.

The administration should also provide Periodic Review Board hearings for any detainees who were previously slated for prosecution whom the administration no longer intends to prosecute. Timely and effective hearings should determine whether continued detention is necessary to protect against a significant threat to the security of the United States.

The administration should also determine whether there are extant credible criminal charges in other foreign jurisdictions where the detainees could be tried.

The administration should determine whether the 10 Afghan detainees of the 46 held in this indefinite detention category can be repatriated to Afghanistan pursuant to a negotiated agreement with the Taliban or the government of Afghanistan. Likewise, the administration should determine whether the 26 Yemeni men held in this category can be transferred based on coordination with the state of Yemen. Long-term efforts by Yemen to institute a rehabilitation program could assist in the transition.

Lastly, the administration could transfer some number of Guantanamo detainees to the United States for continued detention or trial until the end of hostilities. Some have expressed concerns that doing so could embed the injustices of Guantanamo's indefinite detention scheme in domestic practice. While we don't discount those concerns, we believe that with appropriate safeguards to ensure against the use of indefinite detention and military trial authorities for future captures, transfer of detainees to the United States is an acceptable option in furtherance of a broader effort to close Guantanamo. The Government Accountability Office [GAO, an investigative agency of Congress] has documented the high security prison facilities in the United States with capacity that could hold detainees.

To the extent that the administration has not resolved the disposition of any detainees prior to the end of hostilities, the administration should repatriate or resettle these detainees at the end of combat operations in Afghanistan or some other reasonable marker of the end of hostilities.

III. Conclusion

In one sense, closing Guantanamo is a numbers problem—how to get from 166 to zero. Once there were 779 prisoners at Guantanamo. The Bush administration resettled or repatriated more than 500 of them. The Obama Administration has gotten that number down to 166, a majority of whom have been cleared for transfer by the Department of Justice, Department of Defense, Department of State, Department of Homeland Security, Office of the Director of National Intelligence, and Joint Chiefs of Staff. The remaining task is about managing risk to achieve an important national security objective on which there is bipartisan consensus. The risks of transfer can be mitigated; the risks of maintaining Guantanamo forever cannot.

But in another sense, closing Guantanamo is about who we are as a Nation. As the President recently said:

> I know the politics are hard. But history will cast a harsh judgment on this aspect of our fight against terrorism, and those of us who fail to end it. Imagine a future—ten years from now, or twenty years from now—when the United States of America is still holding people who have been charged with no crime on a piece of land that is not a part of our country. Look at the current situation, where we are force-feeding detainees who are holding a hunger strike. Is that who we are?

At a certain point, who we are as a nation cannot be separated from what we do. Guantanamo is a symbol for many around the world of torture, injustice and illegitimacy. As the United States winds down the war

in Afghanistan, Congress and the President have the opportunity to transform this legacy and restore America's reputation for justice and the rule of law.

I urge you to align our actions with our ideals and work with the President to get this done.

ELISA MASSIMINO is president and chief executive officer of Human Rights First, a U.S. based advocacy organizations seeking to advance U.S. global leadership on human rights. She holds a law degree from the University of Michigan.



Frank J. Gaffney, Jr.

NO

Testimony During Hearings on "Closing Guantanamo: The National Security, Fiscal, and Human Rights Implications"

As a former member of the staff of a great Democratic Senator, Henry "Scoop" Jackson [D-WA], and as a professional staff member for the Senate Armed Services Committee under Republican Chairman John Tower [TX], I have great affection for this institution. I revere the mandate it received from the founders as a co-equal partner with the executive in governing this nation.

In my subsequent four-and-a-half years in the [President Ronald] Reagan Defense Department—in which, among other capacities, I acted as the Assistant Secretary of Defense for International Security Policy, I had a different perspective on the accountability the Congress could exact from the executive branch. But I welcomed then, and encourage now, the legislature's indispensable oversight role—a role that is, in my view, essential to maintaining a "well-ordered liberty."

The Case for Gitmo

Let me begin my argument for retaining the detention and interrogation facility at Guantanamo Bay, Cuba (nicknamed "Gitmo") by noting a fundamental reality: **Our nation is at war** [emphasis in the original]. We are operating in that status pursuant to Congress's 2001 Authorization for the Use of Military Force (AUMF), and in accordance with the laws of armed conflict governing a nation's right to self-defense. These are the legal mechanisms of which we have availed ourselves to enable and guide the use of force necessary to protect the United States.

We have been obliged to go to war because it was thrust upon us. And, if we are to prevail in this conflict, we must understand the nature of the enemies with whom we are at war. They are *shariah*-adherent jihadists who believe, in accordance with that doctrine, that it is God's will that they destroy our way of life and subjugate us to theirs. [The shariah (or sharia) is Islamic religious law.]

It is important to state at this point that not all Muslims subscribe to shariah, or seek to impose it on the rest of us. Those that do not adhere to this ideology are not necessarily a problem. They could even be critical to mitigating the threat posed by their co-religionists who *do* embrace shariah. But it is a grievous mistake to think that those we confront are not animated by what they believe to be a spiritual mandate, that we confront only threats from al Qaeda, or that its members are appreciably distinct from others who pursue shariah's requirements to achieve its supremacy worldwide under the rule of a caliphate [an Islamic country ruled by a religious leader under shariah].

Our shariah supremacist enemies have made their intentions known to us prior to the devastating attacks on 9/11, and they have made no secret of them since. The belief that their holy war is divinely inspired has contributed not only to the violent and stealthy forms of jihad being waged against us. It has also contributed materially to the determination of a significant percentage of those captured on the battlefield and detained at Guantanamo Bay to return to the fight if and when they are released.

It would be the subject for another, most useful hearing if this Committee were to examine the lengths to which we have gone as a nation to ignore these realities. Suffice it to say for the present purpose that, by failing to understand the nature and abiding ambition of our foes, we are prone to making dangerous tactical decisions, such as releasing hardened detainees, and potentially fatal strategic ones, including contemplating the closure of Gitmo.

Let's be clear: **Guantanamo Bay is the optimal location for U.S. detention and interrogation of unlawful enemy combatants** [emphasis in the original]. It is simultaneously a uniquely secure facility and a highly humane one. And Gitmo has these attributes primarily thanks to the servicemen and women whose professionalism, discipline and courage make them possible notwithstanding

Gaffney, Jr., Frank J. from Testimony During Hearings on "Closing Guantanamo: The National Security, Fiscal, and Human Rights Implications," *U.S. Senate*, July 24, 2013.

routine, vile and often violent provocations on the part of detainees.

The Absence of Sound Alternatives

The burden of proof should be on opponents of Gitmo to define a superior arrangement. To date, they have been unable to persuade the Congress that there is such an alternative. Indeed, the other choices pose grave risks for national security and/or are less humane than incarceration at Guantanamo Bay. Let me briefly examine several of these in turn.

First, handing detainees over to third-party nations can result in the prisoners deliberately being set free, breaking out of jail or otherwise being enabled to re-join fellow jihadists on the battlefield [emphasis in the original]. In 2010, the Obama administration suspended the transfer of detainees to Yemen out of concern that, according to the *Washington Post*, "a deteriorating security situation driven by a branch of al-Qaeda has stoked fears that detainees could join—or rejoin—the terrorist organization if released."

Just yesterday, the Iraqi arm of al Qaeda claimed responsibility for raids on prison facilities near Baghdad that released hundreds of inmates, including members of al Qaeda. This incident shows the folly of relying on vulnerable foreign prisons to keep dangerous individuals incarcerated. The risk of former Guantanamo Bay detainees returning to the battlefield is a significant one.

Last year, the Office of the Director of National Intelligence [ODNI] released a report indicating that, of the 599 released former Gitmo detainees, 27.9% were either confirmed or suspected of engaging in terrorist activity. This amounts to a 2.9% increase in former Guantanamo detainee recidivism as reported by the ODNI in December 2010. My guess is that some number of the remaining group is *also* back in the jihad, even if there is no evidence of it thus far. **Second, transferring the Guantanamo detainees to the United States for detention—in say a prison like that formerly known as the Thomson Correctional Facility in Illinois—poses substantial security risks** [emphasis in the original]. For one thing, there is the danger arising from what the jihadi detainees might do inside a U.S. prison population in terms of violent plots or perhaps simply their toxic form of shariah proselytization.

For another, housing prominent jihadists in a given American community could cause it to be targeted by their comrades, either in the hope of actually freeing the detainees or simply as an act of jihad. Former federal prosecutor Andrew C. McCarthy, who secured the conviction of the "Blind Sheikh" [Sheikh Omar Abdel-Rahman, an Egyptian living in the United States] for his role in the first bombing of the World Trade Center in 1993, has previously pointed out that jihadists target military bases, and U.S. military bases consist of entire communities where members of our Armed Forces live with their families.

Once detainees are physically inside the United States, moreover, they are within the jurisdiction of federal judges, before whom defense attorneys will argue their clients deserve the full array of constitutional rights afforded to common criminals. Undoubtedly, some federal judges will agree with this assertion.

That would, in turn, enable detainees to be tried in this country under criminal law standards that cannot, as a practical matter, be applied to the circumstances of wartime capture (e.g., evidentiary procedures, Miranda rights, etc.) Prosecutors could then be put in the position of having to disclose classified information in order to secure a conviction under these standards, or risk having the detainee be released—perhaps *inside the United States* [emphasis in the original] especially if no other country is willing to take him.

Let's not kid ourselves. Even if such risks were nonexistent, or simply deemed acceptable, there is no reason to believe that holding Gitmo detainees would spare us the criticism of human rights advocates and defense lawyers of the "Gitmo bar"—including appointees in the Obama administration. As Andy McCarthy has also noted, some of these folks have previously asserted that Supermax-type confinement is a human rights violation. In point of fact, "shoe-bomber" Richard Reid, who was held in a Supermax facility under "special administrative measures" (SAMs) to ensure his secure confinement, argued that the SAMs violated his constitutional rights. The SAMs were subsequently lifted.

Finally, it has been asserted that the existence of Guantanamo Bay has served as a "recruitment tool" for terrorists and that the facility should be shut down for that reason. In fact, shutting down Guantanamo Bay detention operations would rightly be seen by the jihadist movement worldwide as evidence of our submission, and a greatly emboldening victory [emphasis in the original]. It would likely have the effect of increasing recruitment, while at the same time denying us a vital tool for incarcerating and interrogating those we capture rather than kill.

What is more, such a victory would embolden not only the violent jihadists, but also the pre-violent jihadists (most prominently the Muslim Brotherhood), here and

abroad. The latter seek the same outcome as the former—the imposition globally of shariah under the rule of a new caliphate. The only difference is one of tactics driven by the Brotherhood's perception that, for the moment, the correlation of forces is not conducive to success via direct and violent forms of jihad.

Conclusion

For all of these reasons, it is, in my professional judgment, not only desirable but necessary to continue to incarcerate detainees at Guantanamo Bay. We should, moreover, be free to add to their number at Gitmo, if that will help us gather vital intelligence and keep dangerous jihadist enemy combatants off the battlefield.

Frank J. Gaffney, Jr., is founder and president of the Center for Security Policy, a private analysis and advocacy organization. He holds an MA degree from Johns Hopkins University's Paul H. Nitze School of Advanced International Studies.



EXPLORING THE ISSUE

Is Closing the Prison for Alleged Terrorists at the U.S. Naval Base, Guantanamo, Cuba Justified?

Critical Thinking and Reflection

1. Would you give all the constitutional rights of people accused of a crime to all the prisoners in the Guantanamo Bay detention facility? If not, which ones would you deny them? To think about this, find a list of such rights in the criminal justice system. One brief source is *Your Basic Constitutional Rights in the Criminal Justice System,* authored by the Carl Vinson Institute of Government, University of Georgia and located on the web at www.georgialegalaid.org/resource/your-basic-constitutional-rights-in-the-crimi?ref=e31UD.
2. How would you deal with the argument that in some cases producing the evidence, particularly in an open trial, against some terrorists suspects would jeopardize U.S. intelligence agents, damage the ability to conduct covert intelligence, and even put U.S. intelligence agents, informants, witnesses, and others in grave danger?
3. Would it be better to have foreign terrorists apprehended abroad tried in an international court than in an American court?

Is There Common Ground?

Common ground is possible, but getting to it will be difficult. Most of those ever held at Gitmo have been released because they had little or no involvement in terrorism. Stepped up efforts can be made to "place" the 75 or so prisoners cleared for release to another country. The difficult part is the fate of the 40 or so prisoners who the U.S. government deems too dangerous to release. They can be tried and imprisoned under the military commission system, but bringing them back to the United States to stand trial or even to be detained is not possible under laws passed by Congress. Moreover, there is strong public resistance to any such move. A 2014 Gallup poll revealed that 66 percent of Americans opposed bringing any of the prisoners into the country for trial or incarceration. Only 29 percent supported such a move. Furthermore, that approximate division of opinion has been consistent over time. According to a *Huffington Post* poll in 2012, a solid majority (63%) Americans favor trials for the detainees, but a majority (52%) favored trials conducted by military commission, while only on 28 percent supported trials in U.S. civilian courts.

Additional Resources

Bazelon, Emily. (June 8, 2014). *Gitmo Fail. Slate* online at: www.slate.com/articles/news_and_politics/politics/2014/06/bowe_bergdahl_prisoner_swap_obama_finally_releases_detainees_from_gitmo.html

A recent review of the attitudes and actions of the Obama administration related to Gitmo. It begins with the statement and question: "Obama promised to close Guantánamo. Why is he releasing dangerous detainees and ignoring the rest?"

Bravin, Jess. (2013). *The Terror Courts: Rough Justice at Guantanamo Bay* (Yale University Press)

Ellis, T. S. III. (2013). "National Security Trials: A Judge's Perspective." *Virginia Law Review* (99:1607–1652)

Thomas, Donnie L. (2013). *Joint Task Force–Guantanamo Bay, Cuba: Open or Close?* (Army War College Carlisle Barracks)

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Maintained by Al Jazeera America (AJAM), an America-based cable and satellite news television channel, vaguely akin to CNN, that is a subdivision of Al Jazeera, the Arab/Middle East/Muslim media outlet based in Qatar and owned by its royal family.

http://america.aljazeera.com/topics/topic/international-location/americas/guantanamo-bay.html

Guantánamo by the Numbers—The American Civil Liberties Union

Data on prisoners, costs, and other factors compiled by the American Civil Liberties Union.

https://www.aclu.org/national-security/guantanamo-numbers

Guantanamo Docket: Detainees.

A *New York Times* site that lists all 779 individuals imprisoned since 2002 at Guantanamo, their nationalities, and their status. Hyperlinks with each name give some information about the individuals.

http://projects.nytimes.com/guantanamo/detainees

U.S. Department of Defense, Guantanamo Bay

Two sites with details from the U.S. government point of view, with particular information on the detainees and the charges and proceedings against them.

http://www.defense.gov/home/features/detainee_affairs/

http://www.defense.gov/home/features/gitmo/



Unit 4

UNIT

International Law and Organization Issues

While international relations is nearly as old as human political governance, the frequency, scope, and importance of interactions between and among countries has grown with increasing speed, especially during the past 200 years or so and even more extraordinarily since World War II. One factor is technological advances. Technology has increased our ability to extract resources and produce goods and that has expanded our need to get resources and sell our products to others through trade. Transportation advances have also advanced trade. Modern communications and transportation have rapidly expanded the speed with which merchandise, money, people, information, and ideas move over long distances.

This growing interchange and other factors have led to problems becoming more and more international and less and less purely national in nature. Technology is responsible for global warming, a planetary problem. Once little known, seemingly faraway diseases like Ebola are now rightly seen as global threats. Terrorism ignores borders, and nuclear war could extinguish countries and their borders altogether. Economic downturns now happen to the world as a whole, with the global mega-recession beginning in 2008 the most recent example.

More aspects of the coming together of the world for good or ill could be added, but what is important for this unit on international law and organization is that both have also expanded as part of an effort to regulate the much higher levels of international interaction and the ever more international nature of the major problems people and their countries face. There has been a vast growth of international organizations since 1900. Some are general like the UN; others are regional like the European Union. Some are general, again like the UN; others are specialized, like the World Trade Organization. None existed 125 years ago. Similarly, the need for the world to act predictably has led to a burgeoning number of multilateral treaties that govern the behavior of countries in an expanding range of matters governed by international law. Because international law is shackled by limited enforcement mechanisms, it is far less effective than domestic law. Still, there is far more international law now than there was not long ago and far less than there will be in the future.

Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Does Using Drones to Attack Terrorists Globally Violate International Law?

YES: Mary Ellen O'Connell, from "Lawful Use of Combat Drones," *U.S. House of Representatives* (2010)

NO: Michael W. Lewis, from "Examining the Legality of Unmanned Targeting," *U.S. House of Representatives* (2010)

Learning Outcomes

After reading this issue, you will be able to:

- Understand what unmanned aerial vehicles (UVAs, drones) are and what their capabilities are.
- Discuss why UVAs are controversial weapons under international law.
- Comment on whether the upsurge of global terrorism has created a new realm of war that requires rethinking international way in many such areas as drones discussed here and the detention and treatment of terrorists, as discussed elsewhere in this volume.

ISSUE SUMMARY

YES: Mary Ellen O'Connell, a research professor at the Kroc Institute, University of Notre Dame, and the Robert and Marion Short Professor of Law at the School of Law, University of Notre Dame, tells a congressional committee that the United States is failing more often than not to follow the most important single rule governing drones: restricting their use to the battlefield.

NO: Michael W. Lewis, a professor of law at Ohio Northern University's Pettit College of Law, disagrees, contending that there is nothing inherently illegal about using drones to target specific terrorists or groups of terrorists on or away from the battlefield.

During March and April 2010, the Subcommittee on National Security and Foreign Affairs of the Committee on Oversight and Government Reform in the U.S. House of Representatives held a series of hearings to look into the military use of unmanned aerial vehicles (UAVs, drones). These remotely piloted aircraft are capable of launching missiles and otherwise attacking targets, of using cameras and other sensors to gather intelligence, of facilitating communications, and of performing other tasks. The characteristics of the numerous types of UAVs in the U.S. military inventory vary considerably by mission, but one of the best known is the Predator. It is propeller driven, has a top speed of 135 mph, has a 450-mile range, is 27 feet long, has a 48-foot wingspan, can stay aloft for 20 hours, and is armed with two air-to-surface Hellfire missiles, each tipped with a warhead carrying 20 pounds of high explosives. Relative to piloted warplanes, UAVs are inexpensive, costing about one-tenth as much each. There are also great differences in the time and money spent creating pilots.

During the first session of the hearings on March 23, 2010, the subcommittee's chair, Representative John F. Tierney (D-MA), opened the inquiry by outlining its purpose. As Tierney put it with regard to the subject of this debate:

> . . . Over the last decade, the number of unmanned systems and their applications has grown rapidly.

So too has the number of operational, political, and legal questions associated with this technology. The growing demand for and reliance on unmanned systems has serious implications. . . . As the United States is engaged in two wars abroad, unmanned systems, particularly unmanned aerial vehicles, have become a centerpiece of that war effort. In recent years, the Department of Defense's UAV inventory has rapidly grown in size, from 167 in 2002 to over 7000 today. Last year, for the first time, the U.S. Air Force trained more unmanned pilots than traditional fighter pilots.

Some express no doubt that unmanned systems have been a boost to U.S. war efforts in the Middle East and South Asia. CIA Director Leon Panetta said last May that "drone strikes are the only game in town in terms of confronting or trying to disrupt the al Qaeda leadership." Media reports over the last year that the top two leaders of the Pakistani Taliban were killed by drone strikes also support this argument.

But some critics argue that drone strikes are unethical at best and counter-productive at worst. They point to the reportedly high rate of civilian casualties . . . and argue that the strikes do more to stoke anti-Americanism than they do to weaken our enemies. . . . This is particularly relevant in the era of counter-insurgency doctrine, a central tenet of which is, "first, do no harm."

It also may be the case that we are fighting wars with modern technology under an antiquated set of laws. For example, if the United States uses unmanned weapons systems, does that require an official declaration of war or an authorization for the use of force? . . .

These trends are already forcing us to ask new questions about domestic airspace regulation: who is allowed to own unmanned systems, and where they are allowed to operate them?

These are some of the questions that we will begin to answer in this hearing. Surely we will not conclude this conversation in one afternoon. . . .

In the following readings, two experts on international law relating to war take up the use of UAVs to attack targets away from an immediate war zone or "battlefield." Ellen O'Connell argues that such attacks violate international law. Michael Lewis disagrees.



YES

Mary Ellen O'Connell

Lawful Use of Combat Drones

Combat drones are battlefield weapons. They fire missiles or drop bombs capable of inflicting very serious damage. Drones are not lawful for use outside combat zones. Outside such zones, police are the proper law enforcement agents and police are generally required to warn before using lethal force. Restricting drones to the battlefield is the most important single rule governing their use. Yet, the United States is failing to follow it more often than not. At the very time we are trying to win hearts and minds to respect the rule of law, we are ourselves failing to respect a very basic rule: remote weapons systems belong on the battlefield.

I. A Lawful Battlefield Weapon

The United States first used weaponized drones during the combat in Afghanistan that began on October 7, 2001. We requested permission from Uzbekistan, which was then hosting the U.S. air base where drones were kept. We also used combat drones in the battles with Iraq's armed forces in the effort to topple Saddam Hussein's government that began in March 2003. We are still using drones lawfully in the ongoing combat in Afghanistan. Drones spare the lives of pilots, since the unmanned aerial vehicle is flown from a site far from the attack zone. If a drone is shot down, there is no loss of human life. Moreover, on the battlefield drones can be more protective of civilian lives than high aerial bombing or long-range artillery. Their cameras can pick up details about the presence of civilians. Drones can fly low and target more precisely using this information. [The U.S. commander in Afghanistan] General [Stanley] McChrystal has wisely insisted on zero-tolerance for civilian deaths in Afghanistan. The use of drones can help us achieve that. What drones cannot do is comply with police rules for the use of lethal force away from the battlefield. In law enforcement it must be possible to warn before using lethal force, in war-fighting this is not necessary, making the use of bombs and missiles lawful. The United Nations Basic Principles for the Use of Force and Firearms by Law Enforcement Officials (*UN Basic Principles*) set out the international legal standard for the use of force by police:

> Law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

The United States has failed to follow these rules by using combat drones in places where no actual armed conflict was occurring or where the U.S. was not involved in the armed conflict. On November 3, 2002, the CIA used a drone to fire laser-guided Hellfire missiles at a passenger vehicle traveling in a thinly populated region of Yemen. At that time, the Air Force controlled the entire drone fleet, but the Air Force rightly raised concerns about the legality of attacking in a place where there was no armed conflict. CIA agents based in Djibouti carried out the killing. All six passengers in the vehicle were killed, including an American. In January 2003, the United Nations Commission on Human Rights received a report on the Yemen strike from its special rapporteur on extrajudicial, summary, or arbitrary killing. The rapporteur concluded that the strike constituted "a clear case of extrajudicial killing."

Apparently, Yemen gave tacit consent for the strike. States [countries] cannot, however, give consent to a right they do not have. States may not use military force against individuals on their territory when law enforcement measures are appropriate. At the time of the strike, Yemen was not using military force anywhere on its territory. More recently, Yemen has been using military force to suppress militants in two parts of the country. The U.S.'s ongoing drone use, however, has not been part of those campaigns.

The United States has also used combat drones in Somalia probably starting in late 2006 during the Ethiopian

O'Connell, Mary Ellen. "Lawful Use of Combat Drones," U.S. House of Representatives, April 28, 2010.

invasion when the U.S. assisted Ethiopia in its attempt to install a new government in that volatile country. Ethiopia's effort had some support from the UN and the African Union. To the extent that the U.S. was assisting Ethiopia, our actions had some justification. It is clear, however, that the U.S. has used drone strikes independently of the attempt to restore order in Somalia. The U.S. has continued to target and kill individuals in Somalia following Ethiopia's pullout from the country.

The U.S. use of drones in Pakistan has similar problems to the uses in Yemen and Somalia. Where military force *is* warranted to address internal violence, governments have widely resorted to the practice of inviting in another state to assist. This is the legal justification the U.S. cites for its use of military force today in Afghanistan and Iraq. Yet, the U.S. cannot point to invitations from Pakistan for most of its drone attacks. Indeed, for much of the period that the United States has used drones on the territory of Pakistan, there has been no armed conflict. Therefore, even express consent by Pakistan would not justify their use.

The United States has been carrying out drone attacks in Pakistan since 2004. Pakistani authorities only began to use major military force to suppress militancy in May 2009, in Buner Province. Some U.S. drone strikes have been coordinated with Islamabad's efforts, but some have not. Some strikes have apparently even targeted groups allied with Islamabad.

II. The Battlefield Defined

The Bush administration justified the 2002 Yemen strike and others as justified under the law of armed conflict in the "Global War on Terror." The current State Department Legal Adviser, Harold Koh, has rejected the term "Global War on Terror," preferring to base our actions on the view that the U.S. is in an "armed conflict with al-Qaeda, the Taliban and associated forces." Under the new label, the U.S. is carrying out many of the same actions as the Bush administration under the old one: using lethal force without warning, far from any actual battlefield.

Armed conflict, however, is a real thing. The United States is currently engaged in an armed conflict in Afghanistan. The United States has tens of thousands of highly trained troops fighting a well-organized opponent that is able to hold territory. The situation in Afghanistan today conforms to the definition of armed conflict in international law. The International Law Association's Committee on the Use of Force issued a report in 2008 confirming the basic characteristics of all armed conflict: (1) the presence of organized armed groups that are (2) engaged in intense inter-group fighting. The fighting or hostilities of an armed conflict occur within limited zones, referred to as combat or conflict zones. It is only in such zones that killing enemy combatants or those taking a direct part in hostilities is permissible.

Because armed conflict requires a certain intensity of fighting, the isolated terrorist attack, regardless of how serious the consequences, is not an armed conflict. Terrorism is crime. Members of al Qaeda or other terrorist groups are active in Canada, France, Germany, Indonesia, Morocco, Saudi Arabia, Spain, the United Kingdom, Yemen and elsewhere. Still, these countries do not consider themselves in a war with al Qaeda. In the words of a leading expert on the law of armed conflict, the British Judge on the International Court of Justice, Sir Christopher Greenwood:

> In the language of international law there is no basis for speaking of a war on Al-Qaeda or any other terrorist group, for such a group cannot be a belligerent, it is merely a band of criminals, and to treat it as anything else risks distorting the law while giving that group a status which to some implies a degree of legitimacy.

To label terrorists "enemy combatants" lifts them out of the status of *criminal* to that of *combatant,* the same category as America's own troops on the battlefield. This move to label terrorists combatants is contrary to strong historic trends. From earliest times, governments have struggled to prevent their enemies from approaching a status of equality. Even governments on the verge of collapse due to the pressure of a rebel advance have vehemently denied that the violence inflicted by their enemies was anything but criminal violence. Governments fear the psychological and legal advantages to opponents of calling them "combatants" and their struggle a "war."

President Ronald Reagan strongly opposed labeling terrorists combatants. He said that to "grant combatant status to irregular forces even if they do not satisfy the traditional requirements . . . would endanger civilians among whom terrorists and other irregulars attempt to conceal themselves."

The United Kingdom and other allies take the same position as President Reagan: "It is the understanding of the United Kingdom that the term 'armed conflict' of itself and in its context denotes a situation of a kind which is not constituted by the commission of ordinary crimes including acts of terrorism whether concerted or in isolation."

In the United States and other countries plagued by al Qaeda, institutions are functioning normally. No one has declared martial law. The International Committee of the Red Cross is not active. Criminal trials of suspected

terrorists are being held in regular criminal courts. The police use lethal force only in situations of necessity. The U.S.'s actions today are generally consistent with its long-term policy of separating acts of terrorism from armed conflict—except when it comes to drones.

III. Battlefield Restraints

Even when the U.S. is using drones at the request of Pakistan in battles it is waging, we are failing to follow important battlefield rules. The U.S. must respect the principles of necessity, proportionality and humanity in carrying out drone attacks. "Necessity" refers to military necessity, and the obligation that force is used only if necessary to accomplish a reasonable military objective. "Proportionality" prohibits that "which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to concrete and direct military advantage anticipated." These limitations on permissible force extend to both the quantity of force used and the geographic scope of its use.

Far from suppressing militancy in Pakistan, drone attacks are fueling the interest in fighting against the United States. This impact makes the use of drones difficult to justify under the terms of military necessity. Most serious of all, perhaps, is the disproportionate impact of drone attacks. A principle that provides context for all decisions in armed conflict is the principle of humanity. The principle of humanity supports decisions in favor of sparing life and avoiding destruction in close cases under either the principles of necessity or proportionality. According to the International Committee of the Red Cross, the principles of necessity and humanity are particularly important in situations such as Pakistan:

> In classic large-scale confrontations between well-equipped and organized armed forces or groups, the principles of military necessity and of humanity are unlikely to restrict the use of force against legitimate military targets beyond what is already required by specific provisions of IHL [international humanitarian law]. The practical importance of their restraining function will increase with the ability of the conflict to control the circumstances and area in which its military operations are conducted, may become decisive where armed forces operate against selected individuals in situations comparable to peacetime policing. In practice, such considerations are likely to become particularly relevant where a party to the conflict exercises effective territorial control, most notably in occupied territories and non-international armed conflicts.

Another issue in drone use is the fact that strikes are carried out in Pakistan by the CIA and civilian contractors. Only members of the United States armed forces have the combatant's privilege to use lethal force without facing prosecution. CIA operatives are not trained in the law of armed conflict. They are not bound by the Uniform Code of Military Justice to respect the laws and customs of war. They are not subject to the military chain of command. This fact became abundantly clear during the revelation of U.S. use of harsh interrogation tactics. Given the negative impact of that unlawful conduct on America's standing in the world and our ability to promote the rule of law, it is difficult to fathom why the Obama administration is using the CIA to carry out drone attacks, let alone civilian contractors.

Conclusion

The use of military force in counter-terrorism operations has been counterproductive. Military force is a blunt instrument. Inevitably unintended victims are the result of almost any military action. Drone attacks in Pakistan have resulted in large numbers of deaths and are generally seen as fueling terrorism, not abating it. In congressional testimony in March 2009, counter-terrorism expert, David Kilcullen, said drones in Pakistan are giving "rise to a feeling of anger that coalesces the population around the extremists and leads to spikes of extremism well outside the parts of the country where we are mounting those attacks." Another expert told the *New York Times*, "The more the drone campaign works, the more it fails—as increased attacks only make the Pakistanis angrier at the collateral damage and sustained violation of their sovereignty." A National Public Radio Report on April 26, 2010, pointed out that al Qaeda is losing support in the Muslim world because of its violent, lawless tactics. We can help eliminate the last of that support by distinguishing ourselves through commitment to the rule of law, especially by strict compliance with the rules governing lethal force.

Mary Ellen O'Connell is the research professor of international dispute resolution at the Kroc Institute, the University of Notre Dame, and also the Robert and Marion Short professor of law at the university's law school. Among her publications is *The Power and Purpose of International Law* (Ohio State University Press, 2008). She earned her JD from Columbia University.

Michael W. Lewis

NO

Examining the Legality of Unmanned Targeting

Introduction

I am a professor of law at Ohio Northern University's Pettit College of Law where I teach International Law and the Law of Armed Conflict. I spent over 7 years in the U.S. Navy as a Naval Flight Officer flying F-14s. I flew missions over the Persian Gulf and Iraq as part of Operations Desert Shield/Desert Storm and I graduated from Top Gun [the U.S. Navy Fighter Weapons School] in 1992. After my military service I attended Harvard Law School and graduated *cum laude* in 1998. Subsequently I have lectured on a variety of aspects of the laws of war, with an emphasis on aerial bombardment, at dozens of institutions including Harvard, NYU, Columbia and the University of Chicago. I have published several articles and co-authored a book on the laws of war relating to the war on terror. My prior experience as a combat pilot and strike planner provides me with a different perspective from most other legal scholars on the interaction between law and combat.

The Current Laws of War Are Sufficient to Address the Drone Question

There is nothing inherently illegal about using drones to target specific individuals. Nor is there anything legally unique about the use of unmanned drones as a weapons delivery platform that requires the creation of new or different laws to govern their use.

As with any other attack launched against enemy forces during an armed conflict, the use of drones is governed by International Humanitarian Law (IHL). Compliance with current IHL that governs aerial bombardment and requires that all attacks demonstrate military necessity and comply with the principle of proportionality is sufficient to ensure the legality of drone strikes. In circumstances where a strike by a helicopter or an F-16 [a U.S. warplane] would be legal, the use of a drone would be equally legitimate. However, this legal parity does not answer three fundamental questions that have been raised by these hearings. Who may be targeted? Where may they be targeted? And finally who is allowed to pilot the drones and determine which targets are legally appropriate?

Who May Be Targeted?

In order to understand the rules governing the targeting of individuals, it is necessary to understand the various categories that IHL assigns to individuals. To best understand how they relate to one another it is useful to start from the beginning.

All people are civilians and are not subjected to targeting unless they take affirmative steps to either become combatants or to otherwise lose their civilian immunity. It is important to recognize that a civilian does not become a combatant by merely picking up a weapon. In order to become a combatant an individual must be a member of the "armed forces of a Party to a conflict." This definition is found in Article 43 of Additional Protocol I to the Geneva Conventions. It goes on to define the term "armed forces" as:

> The armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, *inter alia,* shall enforce compliance with the rules of international law applicable in armed conflict.

The status of combatant is important because combatants "have the right to participate directly in hostilities." This "combatants' privilege" allows privileged individuals to participate in an armed conflict without violating domestic

Lewis, Michael W. "Examining the Legality of Unmanned Targeting," U.S. House of Representatives, April 28, 2010.

laws prohibiting the destruction of property, assault, murder, etc. The combatant's conduct is therefore regulated by IHL rather than [by] domestic law.

Combatant status is something of a double-edged sword, however. While it bestows the combatant privilege on the individual, it also subjects that individual to attack at any time by other parties to the conflict. A combatant may be lawfully targeted whether or not they pose a current threat to their opponents, whether or not they are armed, or even awake. The only occasion on which IHL prohibits attacking a combatant is when that combatant has surrendered or been rendered *hors de combat*. Professor Geoff Corn has argued compellingly that this ability to target based upon status, rather than on the threat posed by an individual, is the defining feature of an armed conflict.

After examining the definition of combatant, it becomes apparent that combatant status is based upon group conduct, not individual conduct. Members of al Qaeda are not combatants because as a group they are not "subject to an internal disciplinary system which [enforces] compliance with the rules of international law applicable in armed conflict." It does not matter whether an individual al Qaeda member may have behaved properly; he can never obtain the combatants' privilege because the group he belongs to does not meet IHL's requirements. Professor [David] Glazier's testimony [before this committee] that al Qaeda and the Taliban could possess "the basic right to engage in combat against us" is mistaken. These groups have clearly and unequivocally forfeited any "right" to be treated as combatants by choosing to employ means and methods of warfare that violate the laws of armed conflict, such as deliberately targeting civilians.

If al Qaeda members are not combatants, then what are they? They must be civilians, and civilians as a general rule are immune from targeting. However, civilians lose this immunity "for such time as they take a direct part in hostilities." The question of what constitutes direct participation in hostilities (DPH) has been much debated. While DOD [the U.S. Department of Defense] has yet to offer its definition of DPH, the International Committee of the Red Cross (ICRC) recently completed a six-year study on the matter and has offered interpretive guidance that, while not binding on the United States, provides a useful starting point. The ICRC guidance states that "members of organized armed groups [which do not qualify as combatants] belonging to a party to the conflict lose protection against direct attack for the duration of their membership (i.e., for as long as they assume a continuous combat function)."

The concept of a "continuous combat function" within DPH is a reaction to the "farmer by day, fighter by night" tactic that a number of organized armed terrorist groups have employed to retain their civilian immunity from attack for as long as possible. Because such individuals (be they fighters, bomb makers, planners or leaders) perform a continuous combat function, they may be directly targeted for as long as they remain members of the group. The only way for such individuals to reacquire their civilian immunity is to disavow membership in the group.

So the answer to "Who may be targeted?" is any member of al Qaeda or the Taliban, or any other individuals that have directly participated in hostilities against the United States. This would certainly include individuals that directly or indirectly (e.g. by planting IEDs) [improvised explosive devices] attacked Coalition forces as well as any leadership within these organizations. Significantly, the targeting of these individuals does not involve their elevation to combatant status as Professor O'Connell implied in her testimony [found in the first reading]. These individuals are civilians who have forfeited their civilian immunity by directly participating in hostilities. They are not, and cannot become, combatants until they join an organized armed group that complies with the laws of armed conflict, but they nevertheless remain legitimate targets until they clearly disassociate themselves from al Qaeda or the Taliban.

Where May Attacks Take Place?

Some witnesses have testified to this subcommittee that the law of armed conflict only applies to our ongoing conflict with al Qaeda in certain defined geographic areas. Professor O'Connell states that the geographic limit of the armed conflict is within the borders of Afghanistan while others include the border areas of Pakistan and Iraq. They take the position that any operations against al Qaeda outside of this defined geography are solely the province of law enforcement, which requires that the target be warned before lethal force is employed. Because drones cannot meet this requirement they conclude that drone strikes outside of this geographical area should be prohibited. The geographical boundaries proposed are based upon the infrequency of armed assaults that take place outside of Afghanistan, Iraq and the border region of Pakistan. Because IHL does not specifically address the geographic scope of armed conflicts, to assess these proposed requirements it is necessary to step back and consider the law of armed conflict as a whole and the realities of warfare as they apply to this conflict.

One of the principal goals of IHL is to protect the civilian population from harm during an armed conflict.

To further this goal IHL prohibits direct attacks on civilians and requires that parties to the conflict distinguish themselves from the civilian population. As a result, it would seem anomalous for IHL to be read in such a way as to reward a party that regularly targets civilians, and yet that is what is being proposed. As discussed above, a civilian member of al Qaeda who is performing a continuous combat function may be legitimately targeted with lethal force without any warning. But the proposed geographic limitations on IHL's application offer this individual a renewed immunity from attack. Rather than disavowing an organization that targets civilians, IHL's preferred result, the proposed geographic restrictions allow the individual to obtain the same immunity by crossing an international border and avoiding law enforcement while remaining active in an organization that targets civilians. When law enforcement's logistical limitations are considered, along with the host state's ambivalence for actively pursuing al Qaeda within its borders, it becomes clear that the proposed geographical limitations on IHL are tantamount to the creation of a safe haven for al Qaeda.

More importantly these proposed limitations would hand the initiative in this conflict over to al Qaeda. Militarily the ability to establish and maintain the initiative during a conflict is one of the most important strategic and operational advantages that a party can possess. To the extent that one side's forces are able to decide when, where and how a conflict is conducted, the likelihood of a favorable outcome is greatly increased. If IHL is interpreted to allow al Qaeda's leadership to marshal its forces in Yemen or the Sudan, or any number of other places that are effectively beyond the reach of law enforcement and to then strike at its next target of choice, whether it be New York, Madrid, London, Bali, Washington, DC or Detroit, then IHL is being read to hand the initiative in the conflict to al Qaeda. IHL should not be read to reward a party that consistently violates IHL's core principles and as Professor Glazier points out in his reference to the Cambodian incursion, it was not read that way in the past.

Those opposed to the position that IHL governs the conflict with al Qaeda regardless of geography, and therefore allows strikes like the one conducted in Yemen in 2002, have voiced three main concerns. The first concern is that the United States may be violating the sovereignty of other nations by conducting drone strikes on their territory. It is true that such attacks may only be conducted with the permission of the state on whose territory the attack takes place and questions have been raised about whether Pakistan, Yemen and other states have consented to this use of force. This is a legitimate concern that must be satisfactorily answered while accounting for the obvious sensitivity associated with granting such permission. The fact that Harold Koh, the State Department's Legal Advisor, specifically mentioned [in his testimony] the "sovereignty of the other states involved" in his discussion of drone strikes is evidence that the Administration takes this requirement seriously.

The second concern is that such a geographically unbounded conflict could lead to drone strikes in Paris or London, or to setting the precedent for other nations to employ lethal force in the United States against its enemies that have taken refuge here. These concerns are overstated. The existence of the permission requirement mentioned above means that any strikes conducted in London or Paris could only take place with the approval of the British or French governments. Further, any such strike would have to meet the requirements of military necessity and proportionality and it is difficult to imagine how these requirements could be satisfactorily met in such a congested urban setting.

Lastly, there is a legitimate concern that mistakes could be made. An individual could be inappropriately placed on the list and killed without being given any opportunity to challenge his placement on the list. Again, Mr. Koh's assurances that the procedures for identifying lawful targets "are extremely robust" are in some measure reassuring, particularly given his stature in the international legal community. However, some oversight of these procedures is clearly warranted. While *ex ante* [before the fact/event] review must obviously be balanced against secrecy and national security concerns, *ex post* review can be more thorough. When the Israeli Supreme Court approved the use of targeted killings, one of its requirements was for transparency after the fact coupled with an independent investigation of the precision of the identification and the circumstances of the attack. A similar *ex post* transparency would be appropriate here to ensure that "extremely robust" means something.

Who May Do the Targeting?

Another question raised in the hearings was the propriety of allowing the CIA to control drone strikes. Professor Glazier opined that CIA drone pilots conducting strikes are civilians directly participating in hostilities and suggested that they might be committing war crimes by engaging in such conduct. Even if these are not considered war crimes, if the CIA members are civilians performing a continuous combat function then they are not entitled to the combatants' privilege and could potentially be liable for domestic law violations.

Therefore, if CIA members are going to continue piloting drones and planning strikes, then they must obtain combatant status. Article 43(3) of Protocol I [to the Geneva Convention of 1949] allows a party to "incorporate a paramilitary or armed law enforcement agency into its armed forces" after notifying other parties to the conflict. For such an incorporation to be effective a clear chain of command would have to be established (if it does not already exist) that enforces compliance with the laws of armed conflict. Without this incorporation or some other measure clearly establishing the CIA's accountability for law of armed conflict violations, the continued use of CIA drone pilots and strike planners will be legally problematic.

Conclusion

Drones are legitimate weapons platforms whose use is effectively governed by current IHL applicable to aerial bombardment. Like other forms of aircraft they may be used to target enemy forces, whether specifically identifiable individuals or armed formations.

IHL permits the targeting of both combatants and civilians that are directly participating in hostilities. Because of the means and methods of warfare that they employ, al Qaeda and Taliban forces are not combatants and are not entitled to the combatants' privilege. They are instead civilians that have forfeited their immunity because of their participation in hostilities. Members of al Qaeda and the Taliban that perform continuous combat functions may be targeted at any time, subject to the standard requirements of distinction and proportionality.

Placing blanket geographical restrictions on the use of drone strikes turns IHL on its head by allowing individuals an alternative means for reacquiring effective immunity from attack without disavowing al Qaeda and its methods of warfare. It further bolsters al Qaeda by providing them with a safe haven that allows them to regain the initiative in their conflict with the United States. The geographical limitations on drone strikes imposed by sovereignty requirements, along with the ubiquitous requirements of distinction and proportionality, are sufficient to prevent these strikes from violating international law. However, some form of *ex post* [after the fact/event] transparency and oversight is necessary to review the identification criteria and strike circumstances to ensure that they remain "extremely robust."

Michael W. Lewis is a professor of law at Ohio Northern University's Pettit College of Law, where he teaches and writes in the fields of international law and the law of armed conflict. He has served as a U.S. Navy fighter pilot and holds a JD from Harvard University.



EXPLORING THE ISSUE

Does Using Drones to Attack Terrorists Globally Violate International Law?

Critical Thinking and Reflection

1. If al Qaeda were able to attack the White House using a small airplane with suicide bombers that killed Barack, Michelle, Sasha, and Malia Obama, would that strike be different in terms of *jus in bello* than the missile strike that specifically targeted Mustafa Abu al-Yazid and also killed his family members?
2. What do you think of the implication in the remarks of UN investigator Philip Alston that the ability to kill from a far distance, including now using robotic weapons system, is causing a "disconnect" from the death and suffering caused?
3. In April 2010, President Obama reportedly authorized a drone attack, if possible, on an American citizen living in Yemen. The individual, Muslim cleric Anwar al-Awlaki, is alleged, but not proven, to have been involved in several terrorist plots against the United States. Do you support President Obama's decision, and, if so, are there other circumstances in which the president can justifiably authorize the *de facto* execution of an American without judicial sanction?

Is There Common Ground?

Drone attacks have in a few short years gone from unusual to commonplace. The large majority of these attacks by U.S. drones have been against Taliban and al Qaeda targets in Pakistan. There was one attack in 2004 and three in 2005. In 2010, a total of 122 drone attacks were launched, and by the end of 2013, 381 attacks had taken place. There is no doubt that attacks in Pakistan and elsewhere have killed many fearsome terrorists. A September 2014 attack in Somalia, for instance, killed Ahmed Abdi Godane, the leader of the terrorist group Al Shabab, and several other group members. One indication of his importance was that the United States had offered a $7 million reward to his capture. But the death of such "high-value" targets and many more lower-value but lethal terrorists and supporters has been accompanied by many noncombatant deaths. The London-based Bureau of Investigative Journalism estimates that these attacks claimed somewhere between 2,537 and 3,646 lives. Of these, at least 25 percent and probably many more, of the dead have been innocent bystanders. Other studies have found both significantly higher and lower percentages of noncombatant casualties.

Inasmuch as zero-collateral damage in all military operations is neither an achievable standard nor required under *jus in bello* (just conduct of war) by international law, the issue of collateral damage remains highly debatable. This is especially true because the estimates of civilians killed and wounded vary widely. So do the descriptions of the boundaries of the battlefield. President Obama has authorized several increases in the geographic use of drones and permissible targets, and the State Department's legal adviser has defended those extensions, arguing that the war on terrorism is global, not confined to Afghanistan or any other battle zone and that the United States has a right of self-defense to attack terrorists and their supporters anywhere. The adviser also described U.S. procedures for identifying and hitting legal targets as "extremely robust" and becoming "even more precise." A different view was given to the United Nations Human Rights Council in a June 2010 report by UN special investigator. He criticized U.S. UAV attacks as having displaced "clear legal standards with a vaguely defined license to kill," and also for creating a "risk of developing a 'Playstation' mentality to killing."

Yet another dimension to the controversy broke out when a U.S. drone strike in Yemen targeted and killed an American citizen, Anwar al-Awlaki. Born in New Mexico, al-Awlaki had become a militant, gone to Yemen, and become an al Qaeda leader there. Civil rights activists protested that Obama had violated the Constitution by putting any American citizen on a list that the U.S. military and intelligence forces were allowed to seek out and kill.

The common ground for the use of drones is probably very similar to the standards of any form of warfare. Strikes should be launched only against legitimate enemy targets and care should be taken to avoid or minimize

civilian casualties and other collateral damage. The practice, however, is much harder than the principle.

Additional Resources

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The Laws of War

Part of the Avalon Project of Yale University.

http://avalon.law.yale.edu/subject_menus/lawwar.asp

War and Law

https://www.icrc.org/en/war-and-law

ISSUE

Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*



Is the UN a Worthwhile Organization?

YES: **Susan E. Rice,** from "Six Reasons the United Nations Is Indispensable," *Speech or Remarks* (2011)

NO: **Bruce S. Thornton,** from "The U.N.: So Bad It's Almost Beautiful," *Defining Ideas* (2012)

Learning Outcomes

After reading this issue, you will be able to:

- Relate some of the contributions that the United Nations (UN) has made over the years and some of the charges against the UN by critrics.
- Explain why reform is so difficult at the United Nations.
- Discuss each of the six reasons that make the UN indispensable according to Ambassador Rice.
- Comment on whether from the U.S. perspective it would be better to try to reform the UN even more or simply withdraw from it.

ISSUE SUMMARY

YES: Susan E. Rice, U.S. ambassador to the United Nations, tells an audience that the United States is much better off—much stronger, much safer, and more secure—in a world with the United Nations than the United States would be in a world without the UN.

NO: Bruce S. Thornton, a research fellow at the Hoover Institution at Stanford University in California, writes that the United Nations is fatally flawed by not having consistent, unifying moral and political principles shared by member nations that can justify UN policies or legitimize the use of force to deter and punish aggression.

The United Nations was established in 1945 as a reaction to the failure of its predecessor, the League of Nations, to prevent World War II and its horrendous destruction of life and property. From this perspective, founding the UN in 1945 represented something akin to a sinner resolving to reform. In this case, a world that had just barely survived a ghastly experience pledged to organize itself to preserve the peace and improve humanity. Now, nearly 70 years later, international violence continues, global justice and respect for international law remain goals rather than reality, and grievous economic and social ills still afflict the world.

It is also the case that the UN has been and remains principally a political organization in which the countries of the world maneuver to advance their political agendas rather than an international organization in which the world's countries work together in the spirit of cooperation to solve global problems. Moving forward is often particularly difficult because most peacekeeping activity using UN forces and many other key UN functions need the approval of the Security Council. But in a scheme that dates to the power realities in 1945 when the UN was organized, the Council is dominated by five permanent members, each of which can veto almost anything the Council does. These members are China, France, Great Britain, Russia, and the United States. In recent times, for example, efforts to put strong UN-backed sanctions on Iran in response to its alleged nuclear weapons program have been blocked in the Security Council by the unwillingness of China and Russia to support tough sanctions.

The United States also often finds itself outvoted in the other main UN legislative body, the General Assembly. For a quarter century most UN members were U.S. allies, and Washington was usually able to dominate the General Assembly, where each country has one vote. However, the UN's membership changed during the 1960s and 1970s when dozens of former colonies in Africa, Asia, and elsewhere gained independence and joined the UN. These new member countries often saw things differently than the United States, and by the 1980s the United States' ability to almost always muster a majority in the UN General Assembly had waned.

There have also been widespread charges that the UN's bureaucracy is excessive and inefficient. Partly in reaction to that, Congress in 2002 mandated a 12 percent reduction in the percentage of the basic UN budget funded by the United States and has rarely appropriated enough money to even meet the new, lower figure. Even more recently, several scandals have rocked the UN. From 1996 to 2003, it ran an "oil-for-food" program that permitted Iraq to sell oil and use the receipts to buy food, medicine, and other humanitarian supplies under UN supervision. Persistent rumors about corruption in the $67 billion program led to an investigation in 2004 that found substantial corruption, including the program administrator taking brides to ignore the fact that Iraq was diverting huge sums to the purchase of munitions and for other banned uses. The UN's image was further sullied in 2004 when evidence came to light of UN peacekeeping troops and personnel trading food and other necessities of life to obtain sex from those they were supposedly protecting.

Yet for all the flaws and frustrations, the UN has made many contributions. Since the UN was founded, it has fielded 67 peacekeeping operations using hundreds of thousands of military personnel, tens of thousands of UN police offices, and many support personnel from 120 countries. More than 3,000 of these peacekeepers have died while serving under the UN flag. The UN has also helped shelter and fed millions of refugees, has supplied agricultural and other developmental assistance to more than half the world's countries, and has made many other contributions. Are these enough to offset the UN's limits and flaws? In the YES selection, Susan Rice answers yes. She contends that while the UN is not perfect, it plays an indispensable role in promoting U.S. interests and values. Bruce Thornton disagrees in the NO selection. He criticizes Americans who believe in the usefulness of the UN. He contends that the UN is a collection of unaccountable functionaries of tyrannous regimes—regimes that undermine the legitimacy of UN policy.



YES

Susan E. Rice

Six Reasons the United Nations Is Indispensable

We're meeting at the end of an extraordinary day—a rare moment in our lives when we have had the privilege to witness history in the making. Egyptians have just overthrown long-time, authoritarian president Hosni Mubarak. The proud people of Egypt have reminded the world of the power of human dignity and the universal longing for liberty. The American people have been deeply inspired by the scenes in Cairo and across that great ancient land. President Obama today recalled the words of Dr. Martin Luther King Jr., who said, "There is something in the soul that cries out for freedom." As those cries came from Tahrir Square [in Cairo], they moved the entire world. The United States will fully support a credible and irreversible transition to genuine democracy in Egypt.

February 11 [2011] is turning out to be one of those dates that echoes in history. How many of you remember that 21 years ago today, Nelson Mandela walked out of prison? [Mandela was a leader of the effort to end the white-dominated racist government of South Africa. He became the country's first president under the new, reformed government.] There were those who said that South Africa could not handle democracy, that it would set off a wave of instability and violence. Instead it set off a wave of liberty for South Africans. Many people thought South Africa couldn't do it. South Africa proved the naysayers wrong. I'm very confident the people of Egypt can do the same. Now, let me turn from a day of astonishing change to some of the changes we have made in America's approach to the wider world.

We're now two years into the Obama Administration. At a time of economic trial and sweeping change, we've made America stronger and more secure by pursuing a strategy of national renewal and energetic global leadership. Tonight, I want to discuss how the United Nations fits into that strategy—why we need the UN, how it makes us all safer, and what we're doing to fix its shortcomings and help fulfill its potential.

In these tough economic times, we're focused on getting our economy growing and providing jobs to Americans who're hurting. Yet even as we get our own house in order, we cannot afford to ignore problems beyond our borders. When nuclear weapons materials remain unsecured in many countries around the world, all our children are at risk. When states are wracked by conflict or ravaged by poverty, they can incubate threats that spread across borders—from terrorism to pandemic disease, from criminal networks to environmental degradation. Like it or not, we live in a new era of challenges that cross borders as freely as a storm—challenges that even the world's most powerful country often cannot tackle alone. In the 21st century, indifference is not an option. It's not just immoral. It's dangerous.

Now more than ever, Americans' security and wellbeing are inextricably linked to those of people everywhere. Now more than ever, we need common responses to global problems. And that is why America is so much better off—so much stronger, so much safer and more secure—in a world with the United Nations than we would be in a world without it.

Main Street America needs the United Nations, and so do you and I, especially in these tough economic times. America can't police every conflict, end every crisis, and shelter every refugee. The UN provides a real return on our tax dollars by bringing 192 countries together to share the cost of providing stability, vital aid, and hope in the world's most broken places. Because of the UN, the world doesn't look to America to solve every problem alone. And the UN offers our troops in places like Afghanistan the international legitimacy and support that comes only from a Security Council mandate—which, in turn, is a force multiplier for our soldiers on the frontlines. It is all too easy to find cases where the UN could be more efficient and effective. I spend plenty of time pointing them out and trying to fix them—and not always diplomatically. But judging the UN solely by isolated cases of mismanagement or corruption misses the forest for the trees. We're far better off working to strengthen the UN than trying to starve it—and then having to choose between filling the void ourselves or leaving real threats untended.

Rice, Susan E. From remarks delivered at World Affairs Council of Oregon, Portland, OR, February 11, 2011.

The American public—you get it. An October 2010 survey . . . found that 72 percent of Americans support paying our UN peacekeeping dues in full and on time. The American people are fundamentally pragmatic. They know, after all, that America created the UN. In 1942, during World War II, Franklin Delano Roosevelt summoned 26 allies to Washington to sign the Declaration of the United Nations and pledged "to defend life, liberty, independence and religious freedom." As President Truman subsequently boasted, "We started the United Nations. It was our idea." Years later, President Reagan affirmed: "We are determined that the United Nations shall succeed and serve the cause of peace for humankind.

Roosevelt and Truman were practical men who wanted common action to halt aggression and prevent another world war. As one of the UN's greatest Secretaries-General, Dag Hammarskjöld [in office, 1953–1961], put it, the UN was designed "not to bring humanity to heaven but to save it from hell." Over the years, we've learned the price of letting global problems go unaddressed. So the UN has taken on huge responsibilities for keeping the peace—and for saving innocent civilians not just from the hell of conflict but also from the hell of displacement, disease, and despair.

The truth is: the UN has also picked up some bad habits along the way, and we must continue to be clear about its shortcomings. You hear a lot of criticism of the UN from some quarters—and, I confess, I agree with some of it. But we must not lose sight of the many burdens the UN helps shoulder and the many benefits it provides to every American.

Some critics argue that we should withhold our UN dues to try to force certain reforms, or that we should just pay for those UN programs we like the most. This is shortsighted, and it plain just doesn't work. The United States tried this tactic during parts of the 1980s and 1990s, and the result was that we were more isolated and less potent. That is because great and proud nations like ours are judged by their example. They are expected to keep their treaty commitments and pay their bills. When we shirk our responsibilities, our influence wanes, and our standing is diminished. Imagine going to a restaurant, getting a pretty good steak that could have been cooked a little better, and then skipping out on the check. We just cannot lead from a position of strength when we're awash in unpaid bills. We cannot depend on UN missions in Iraq and Afghanistan to help our troops return home safely and in success—and then decimate the budgets that fund them. And, if we treat our legally binding financial obligations like some kind of a la carte menu, we invite others to do the same. So, instead of paying just 22 percent of the nearly half a billion dollar annual cost of crucial UN support operations in Iraq and Afghanistan, we'd be stuck with almost the whole tab ourselves.

Yet paying our bills in full and on time doesn't mean giving the UN a pass. As we work with Congress in a bipartisan spirit to meet our responsibilities, we continue to lead the charge for serious and comprehensive reform. The UN has far more to do to create a culture of economy, ethics, and excellence. The UN must be more lean, more nimble, and more cost-effective. In recent years, the United States has spurred important changes, including revitalizing the UN Ethics Office, now headed by a respected American. The newly appointed UN inspector-general is a tough Canadian auditor committed to whipping into shape an atrophied investigations division. And no one has pushed harder than the U.S. to protect whistleblowers, impose budget discipline, and promote transparency. But the UN still has much to do to reduce bureaucracy, reap savings, reward talent, and retire underperformers.

Some Americans believe the UN infringes on American sovereignty. Frankly, I am baffled by this concern. The fact is: the UN can't tax us. It can't override U.S. law. The UN can't order our soldiers into battle. It can't take away our Second Amendment rights. The UN can't impose social norms on us. And it doesn't begin to have any much-hyped fleet of secret black helicopters. The truth is: the UN Security Council can't even issue a press release without America's blessing. The UN depends entirely on its member states, not the other way around. When the UN stumbles, it's usually because its members stumble—because big powers duck tough issues in the Security Council or spoilers grandstand in the General Assembly. As one of my predecessors, the late Richard Holbrooke, was fond of saying, "Blaming the UN when things go wrong is like blaming Madison Square Garden when the Knicks play badly."

Others charge that UN peacekeepers haven't done enough to stop rape and sexual abuse on their watch and occasionally even perpetrate abuses. Indeed, the epidemic of rape in conflict zones is shocking and horrific. That's why the United States has consistently led Security Council efforts to strengthen the mandates and means to protect civilians. That's why we pushed to create a high-level office to combat sexual violence against women and girls in conflict zones. And that's why we consistently champion accountability for genocide and justice for war criminals, whoever they are. But let's not forget the practical limitations on what peacekeepers can do. The Democratic Republic of Congo is a country the size of the United States east of the Mississippi River, with

few roads, few cops, and far too many marauders. Some 20,000 peacekeepers with only a couple dozen helicopters can hardly be everywhere they may be needed all the time. Even as we demand that the UN do more and do better, we must focus our attention on the main problem: thugs with guns who deliberately use rape as a weapon of war.

Many others lament that the UN is too focused on singling out Israel. On that, they're right. UN members devote disproportionate attention to Israel and consistently adopt biased resolutions, which too often divert attention from the world's most egregious human rights abuses. I spend a good deal of time working to ensure that Israel's legitimacy is beyond dispute and its security is never in doubt. The tough issues between Israelis and Palestinians can only be solved by direct negotiations between the two parties, not in New York. We've been blunt about the deep flaws of the Goldstone Report and the Human Rights Council's inquiry into the tragic flotilla episode. We'll keep fighting to ensure that Israel has the same rights and responsibilities as all states—including membership in all appropriate regional groupings at the UN. Efforts to chip away at Israel's legitimacy will continue to be met by the frontal opposition of the United States.

Some people have criticized the Obama Administration for having sought and won a seat on the UN Human Rights Council in 2009. We have no illusions about the Human Rights Council, and we get why some people think of it as a symbol for what ails the UN. But, let me tell you this: the results were worse when America sat on the sidelines. Dictators frequently weren't called to account; abused citizens couldn't count on their voices being heard; and Israel was still bashed. We've got a long way to go to transform the Human Rights Council, but we've already gotten important results by working for real change from within. We helped set up the first-ever Special Rapporteur to monitor crackdowns on civil society groups and protect the right to free assembly and association. We twice renewed the term of the UN's Independent Expert on Sudan—the only international mechanism tracking human rights violations throughout the country. We shone the spotlight on abuses in Kyrgyzstan, Guinea, and the Democratic Republic of Congo. And, instead of abandoning Israel, we've been there to contest moves to single it out unfairly.

Put simply, some of the criticisms of the UN are overdone, and some are right on the money. Despite the UN's flaws, it's indispensable to our security in this age of tighter bonds and tighter belts. Let me provide a bit of perspective. Out of every tax dollar you pay, 34 cents goes to Social Security and Medicare, 22 cents to national security and our amazing military, and a nickel to paying interest on the national debt. Just one-tenth of a single penny goes to pay our UN dues. And here's what that buys you.

First, the UN helps prevent conflict and keep the peace around the globe. Since 1948, UN missions have saved lives, averted wars, and helped bring democracy to dozens of countries. More than 120,000 military, police, and civilian peacekeepers are now deployed in 14 operations around the world, from Haiti to Darfur to East Timor. Of those 120,000 peacekeepers, just 87 are Americans in uniform. Every peacekeeping mission must be approved by the Security Council—where America has a final say over all decisions. In Iraq and Afghanistan, UN civilian missions are mediating local disputes, coordinating international aid, and helping advance democracy—all of which helps us bring our soldiers home responsibly. UN "peacebuilding" efforts help rebuild shattered societies and prevent yesterday's hatreds from sparking tomorrow's infernos. And UN mediation has helped broker the end of conflicts, from Cambodia to Guatemala. Each UN peacekeeper costs a fraction of what it would cost to field a U.S. soldier to do the same job. So what's better, for America to bear the entire burden, or to share the burden for UN peacekeepers and pay a little more than a quarter of the cost? I don't know about you, but personally, I like places where I get 75 percent off. This is burden-sharing for a reasonable price—a lifesaving way to enable others to join us in preventing the conflict and chaos that can breed terrorism, pandemics, and other 21st-century threats. It's a whole lot more responsible to work together and share responsibility than to let threats multiply and innocents suffer.

Second, the UN helps halt the proliferation of nuclear weapons. In 2009, President Obama presided over a historic Security Council summit that unanimously adopted robust, binding steps to reduce nuclear dangers. The International Atomic Energy Agency, a key UN agency, has exposed Iran and North Korea's nuclear violations. And in the past two years, with U.S. leadership, the Security Council imposed the toughest sanctions that Iran and North Korea have ever faced. Strong Security Council resolutions have provided a foundation for others—from the European Union to Canada to South Korea—to levy additional sanctions of their own. And they warn governments that would defy their international obligations that they too will face isolation and consequences.

Third, UN humanitarian agencies go where nobody else will go to provide desperately needed food, shelter, and medicine. When polio erupted in Central Asia

last year, health ministries were caught off-guard—but the World Health Organization vaccinated 6 million kids in Tajikistan and Uzbekistan, at a cost of less than $2 million. Where young people are at risk from deadly disease, UNICEF [United Nations Children's Fund] provides vaccines to fully 40 percent of the world's children and supplies millions of insecticide-treated mosquito nets in 48 countries to prevent malaria. When 125,000 Iraqi refugees were huddled in the winter chill, the UN High Commissioner for Refugees provided cash grants to buy heating fuel and warm clothes. When floods devastated Pakistan last year, the World Food Program helped feed 6.9 million people. UN humanitarian assistance doesn't just save lives. It also helps break the devastating downward spiral of chronic desperation that fuels violence and threatens international peace and security.

Fourth, the UN helps countries combat poverty, including by championing the lifesaving Millennium Development Goals. These goals include cutting extreme poverty in half and slashing the mortality rate of children under 5 by two-thirds by the year 2015. We're all more secure when people around the world have a shot at the better future we insist on for our own kids. It should trouble us deeply that half of humanity lives on less than $2.50 a day. Desperate poverty and the lack of basic services can fuel war and turmoil, creating ready havens for terrorists, criminals, and drug traffickers. Fortunately, UN development efforts afford millions the opportunity for a more dignified future. By investing in our common humanity, we simultaneously strengthen our common security.

Fifth, the UN helps foster democracy by providing expertise and oversight to strengthen fragile state institutions and support elections worldwide. Through the UN, when the people of South Sudan vote for their own freedom, the world can lend a vital hand. And when a strongman like Laurent Gbagbo of the Ivory Coast tries to steal an election, the UN, on behalf of the world, can blow the whistle.

Finally [sixth], the UN is a place where countries can come together to advance universal human rights and condemn the world's worst indignities. U.S. leadership has helped produce important results in the UN General Assembly, where we have condemned Iran, Burma, and North Korea's human rights abuses by unprecedented vote margins. We have fought and won protection for gay rights, and created UN Women, a new agency dedicated to advancing women's rights. Those steps and many more help rally the world to support bedrock U.S. and universal values: liberty, equality, and human dignity.

In the 21st century, we need the UN more than ever—to help bridge the gaps between war and reconciliation, between division and cooperation, and between misery and hope. Those of us—Democrats, Republicans, and independents alike—who support the United Nations owe it to American taxpayers to ensure that their dollars are well and cleanly spent. But, equally, those who push to curtail U.S. support to the United Nations owe it to U.S. soldiers to explain why they should perform missions now handled by United Nations peacekeepers, and they owe it to parents around the world to explain why their children should suffer without the medicine, food, and shelter that only the United Nations provides.

The United Nations plays an indispensable role in advancing our interests and defending our values. It provides a real return to the American taxpayer on our investment. The United Nations isn't perfect—far from it. The United Nations isn't the sum of our strategy—not even close. But it's an essential piece of it.

As my friend and mentor, former Secretary of State Madeleine Albright, has said, "There is a vast, sensible middle ground between those who see the United Nations as the only hope for the world and those who see in it the end of the world." A wise and deep bipartisan tradition has long seen the United Nations as essential to spurring the common actions that make Americans safer. That tradition recognizes that, if the United Nations didn't exist, we would have to invent it. Thankfully, we did help invent it. Our challenge today is to strengthen it—and in doing so, to make America more secure.

Susan E. Rice at the time of her speech that makes up this article was the U.S. permanent representative to the United Nations. Subsequently, on July 13, 2013, she became President Obama's national security adviser. During the presidency of Bill Clinton she served in a range of high-level posts including Assistant Secretary of State for African Affairs (1997–2001). Rice also has been a Rhodes Scholar at Oxford University, and earned a doctorate there.

Bruce S. Thornton

NO

The U.N.: So Bad It's Almost Beautiful

A bill introduced in Congress would allow the United States—which pays 22 percent of the United Nations' core budget and 25 percent of its peacekeeping expenses—to keep better track of how the money is spent and make sure that spending serves policies and programs consistent with American interests and principles. Yet tinkering with the United Nations' funding mechanisms will never correct the fatal flaw with the organization itself. To think otherwise is to assume that glasnost and perestroika could have saved the Soviet Union.

That flaw is the lack of consistent, unifying moral and political principles shared by member nations that can justify U.N. policies or legitimize the use of force to deter and punish aggression. Because of that absence, authoritarian, totalitarian, and even gangster regimes have seats in the U.N. General Assembly and its various councils and commissions. Of course, lip service is paid to Western ideals like universal human rights, political freedom, and liberal democracy, but these are nominally recognized not because all other nations believe in them but because of the West's economic and military dominance.

As a result, these ideals are simply redefined beyond recognition by non-Western cultures. In the Cairo Declaration on Human Rights in Islam [1990], for example, pleasing lists of "human rights" are in effect canceled out by Article 24, which says, "All the rights and freedoms stipulated in this Declaration are subject to the Islamic sharia." Or, taking their cue from Western cultural relativism, other nations dismiss such ideals as specific to the West. They argue that trying to impose Western ideals on non-Western cultures is stealth imperialism, if not outright racism.

The vacuum created by a lack of unified principles has been filled by national, political, and ideological self-interests. Thus the United Nations becomes the vehicle for pursuing those interests, as when the Soviet bloc in 1986 engineered a resolution that in effect forbade using human rights abuses as a rationale for U.N. intervention. In 1993 a U.N. conference on human rights wrote a declaration that left out any reference to individual rights such as freedom of speech. As Israeli statesman and diplomat Dore Gold writes in *Tower of Babble*[*: How the United Nations Has Fueled Global Chaos*], "The new U.N. majority had emptied the term 'human rights' of its original meaning and hijacked it to serve its authoritarian political agenda."

Rewarding Terrorism

As the sorry history of the United Nations has shown, the various non-democratic regimes use the organization to pursue their interests at the expense of those of the United States. But then, so do American allies, as when France and Germany labored mightily in 2002 to thwart a U.N. resolution authorizing the war against Saddam Hussein, despite the fact that he had flouted seventeen previous U.N. resolutions.

The fundamental problem: member nations don't share consistent, unifying moral and political principles. Examples of such unprincipled behavior in pursuit of national interests are legion. The most egregious are the various resolutions that legitimize and reward terrorism. For example, [Palestinian leader] Yasser Arafat addressed the General Assembly wearing a holster on his hip in November 1974, a mere six months after his terrorist Palestine Liberation Organization had murdered scores of Israeli schoolchildren and three American diplomats. Arafat's visit was inevitable after the United Nations in 1970 passed Resolution 2708, which states that the United Nations "reaffirms its recognition of the legitimacy of the struggle of the colonial peoples and peoples under alien domination to exercise self-determination and independence by all the necessary means at their disposal." This free pass for terrorists was reaffirmed in 1982 when the U.N. General Assembly approved the "legitimacy of the struggle of peoples . . . from colonial and foreign domination and foreign occupation by all available means, including armed struggle."

In April 2005, the Commission on Human Rights refused to condemn killing in the name of religion. Even more

Thornton, Bruce. As seen in *Hoover Digest,* January 2012. Reprinted from *Defining Ideas* (www.hoover.org/publications/defining-ideas), 2011. Copyright ©2012 by the Board of Trustees of the Leland Stanford Junior University. All rights reserved. Reprinted by permission of Hoover Institution Press.

despicable, in 1975—on the thirty-seventh anniversary of Kristallnacht, the Nazi pogrom against German Jews—the United Nations passed Resolution 3379, which defined Zionism as a form of racism. This odious resolution was revoked sixteen years later, but only because Israel had made its repeal a condition of participating in the Madrid peace conference. That this repeal reflected expediency rather than principle was obvious in April 2002, when the U.N. Commission on Human Rights affirmed "the legitimate right of the Palestinian people to resist Israeli occupation," just after a Hamas suicide bomber had killed thirty Israelis celebrating Passover.

The Commission on Human Rights and its allegedly improved successor, the Human Rights Council, may be the best representatives of the United Nations' Orwellian hypocrisy [a reference to George Owell's *1984*, a novel in which the government Ministry of Truth changes historical records to reflect the doctrine of the government]. Thug states like Iran, Sudan, Cuba, China, Zimbabwe, Saudi Arabia, and North Korea, which support terrorism and violate human rights as a matter of policy, have been allowed to sit on the council, where terrorist and state violence is never censured, even as Israel faces serial condemnation. Indeed, in April 2005, the commission refused to condemn killing in the name of religion. At the same time, it asserted that criticizing Muslim terrorists was "defamation of religion."

In March 2007, the council's response to the killings and riots that followed the publication of cartoons depicting Muhammad was to call for a ban on the defamation of religion—even as it ignored the threat to the human right to free speech. Neither the genocidal charter of Hamas [a Palestinian political organization considered to be terrorist by the United States and many other countreis] nor the widespread, state-sanctioned anti-Semitism in the Middle East has ever been condemned, while thirty-three resolutions through 2010 have criticized Israel. The animus of the Human Rights Council against the only liberal democracy in the Middle East was evident recently in its wildly inaccurate and biased Goldstone Report, an investigation into Israel's actions in Gaza. [The Goldstone Report is a 575-page document, *Report of the United Nations Fact Finding Mission on the Gaza Conflict* submitted in 2009 to the Human Rights Council by a UN investigative commission headed by South African Judge Richard Goldstone.] Even the report's author was compelled to disavow it because of inaccuracies and obvious bias. Like the United Nations, the council is an instrument of member states' interests, not the presumed principles and rights enshrined in its charter and rhetoric.

"Harmony of Interests" a Cruel Illusion

Given its purpose as a means for weak or autocratic states to pursue their interests, the United Nations has evolved into a bloated, corrupt, ineffective bureaucracy. Its budget has doubled since 2000. The most famous U.N. scandal is the 1995–2003 oil-for-food program that operated in Saddam Hussein's Iraq, overseeing $15 billion a year supposedly meant to feed the Iraqi people. Instead it was "an open bazaar of payoffs, favoritism, and kickbacks," as *The New York Times* put it, generating over $10 billion in illicit funds for Saddam's regime and billions more for Russian and French politicians and businessmen.

Worse than these financial scandals, however, is the utter impotence of the United Nations in stopping violence in places like Sudan, Bosnia, and Rwanda, where horrific violence occurred a stone's throw away from U.N. "peacekeeping" forces. In fact, in Bosnia, U.N. "safe areas" simply made it easier for the Serbs to round up and slaughter seven thousand Bosnian Muslims.

Even worse than its financial scandals is the U.N.'s utter impotence in stopping violence in places like Sudan, Bosnia, and Rwanda. The United Nations is a relic of the same Enlightenment idealism that has driven internationalism for almost two centuries and which has failed dismally to stop the violence of the twentieth century and beyond. That idealism assumes that all humanity is progressing beyond the use of force, tyrannical regimes, and parochial nationalist interests to a transnational "harmony of interests" created by communication technologies, global trade, and the spread of liberal democracy. These shared interests, moreover, can be institutionalized in international laws, courts, treaties, and supranational organizations that will substitute diplomacy and negotiation for force.

This vision created the League of Nations, which in the Twenties and Thirties completely failed to stop the state violence of Japan, Italy, and Germany. Its successor, the United Nations, has done no better for the simple reason that such a "harmony of interests" does not exist and never will. States and peoples have different values, beliefs, and aims. They pursue interests that conflict with the interests and aims of other states. And the melancholy lesson of history is that these conflicts usually are resolved by force or the credible threat of force, not by diplomatic chatter in a "cockpit in the Tower of Babel," to use the phrase conjured up by Winston Churchill when the United Nations was born.

The question, then, is not how we fix the United Nations, as the U.N. Transparency, Accountability, and

Reform Act, introduced in August [2011] by Florida Republican Ileana Ros-Lehtinen [chairwoman of the Committee on Foreign Affairs, U.S. House of Representatives], attempts to do. Instead it is why we continue to spend U.S. taxpayer dollars—$7.7 billion in 2010—on an institution filled with states hostile to us and working against our own foreign policy interests. Herein lies the greatest flaw in the thinking of those Americans who still believe in the usefulness of the United Nations: they believe that unelected, unaccountable functionaries of tyrannous regimes—regimes not only pursuing their own interests but frequently working against our interests—are more capable of determining the legitimacy of the United States' foreign policy and behavior than are the American people.

In contrast to the United Nations, the legitimacy of American actions is conferred by the democratic process: the free, open debate on the part of citizens who can hold their leaders accountable and have a sense of the ideals and principles that animate foreign policy and provide its goals. Subjecting those decisions to the corrupt deliberations of the United Nations merely hampers our own interests and endangers our national security. We need to get out of the United Nations, not fix it.

Bruce S. Thornton is a research fellow at the Hoover Institution and a professor of classics and humanities at California State University in Fresno, California. He received a PhD degree in comparative literature from the University of California at Los Angeles. His most recent book is *The Wages of Appeasement: Ancient Athens, Munich, and Obama's America* (Encounter Books, 2011).



EXPLORING THE ISSUE

Is the UN a Worthwhile Organization?

Critical Thinking and Reflection

1. Both Susan Rice and Bruce Thornton in the YES and NO selections evaluate the UN in terms of how well it advances U.S. policy and interests. Is that a correct standard, even for Americans, or should the UN be evaluated from the point of view of how well it promotes the goals of its Charter including maintaining and promoting peace, protecting human rights, and improving the conditions of less fortunate people and countries?
2. To fund its operations, the UN assesses countries based on their wealth. The United States pays the greatest share, which came to about $3 billion or general operations and peacekeeping in 2012. The U.S. also contributes about another $5 billion to various UN-associated agencies like the World Health Organization. These funds total about two-tenths of 1 percent of the U.S. budget. Some say these amounts to the UN are too high. Do you agree?
3. Would you favor or oppose abolishing the veto in the UN Security Council?

Is There Common Ground?

Evaluating the value of the UN has a great deal to do with what standard of evaluation you adopt. One standard is akin to asking whether a glass is half full or half empty. Undoubtedly, the UN has not come anywhere near achieving the lofty goals set out in its Charter. Thus, the evaluative glass is at least half empty. However, it is also true that the UN has accomplished a great deal. Many UN peacekeeping operations have been fielded, and some of them have made an important contribution. In late 2012, there were over 97,000 troops, police, and other personnel from 116 countries trying to provide security through 18 different UN peacekeeping operations. For all the human abuse and poverty that remain, there are greater justice and better living conditions in the world now than that existed a few decades ago. Again, the UN can legitimately claim some of the credit. So from this perspective, the glass is at least fuller than it once was.

Yet another standard of measurement has to do with the old adage about being careful when throwing stones in glass houses. The UN has sometimes wasted money, its workers have not always performed admirably, and even Secretary General Kofi Annan (1997–2006) conceded that to some degree the UN's administration had "become fragmented, duplicative, and rigid." Yet every government, including the U.S. government, is subject to the same accusation. Annan was able to implement many changes, and his successor beginning in 2006, Secretary General Ban Ki-moon, has said continued reform will be a top priority. It is also the case that a small number of UN troops and personnel have behaved immorally, but the equally if not more abominable performance of a few American soldiers at Abu Ghraib Prison and elsewhere show how the actions of the reprehensive few can besmirch the reputations of the honorable many.

The ultimate question is if not the UN, then what. Calls to "fix" the UN are many and varied, and debating what should be done and what is possible are worthwhile. Perhaps creating a successor organization would be a good idea. Then there is the suggestion of doing without a central global organization. Ask yourself whether that would open the way to a safer, more prosperous, more just world or even further your country's national interests.

Additional Resources

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Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Should the United States Consider Leaving the UN Human Rights Council?

YES: Nikki Haley, from "A Place for Conscience: The Future of the United States in the Human Rights Council," *Mission of the United States of America* (2017)

NO: Ted Piccone, from "Testimony during Hearings on 'Assessing the UN Human Rights Council'," *U.S. Senate Committee on Foreign Relations* (2017)

Learning Outcomes

After reading this issue, you will be able to:

- Describe the evolution of the UN Commission on Human Rights into the UN Council on Human Rights (UNHRC).
- Explain the principal criticisms of the UNHRC.
- Assess whether the U.S. should continue to participate in the UNHRC.

ISSUE SUMMARY

YES: Nikki Haley, U.S. Ambassador to the United Nations, in a presentation at the Graduate Institute of Geneva, tells her audience that the United States believes the UN Human Rights Council suffers from a "credibility deficit" due to its failure to address the worst human rights abuses (and abusers), and its tendency to concentrate unfairly on Israel. Haley thus calls for reforms, including competitive elections for new members and the removal of "Item Seven" from the Council's Agenda, which concerns Israel. Without these reforms, she suggests the United States will work around the Council—but withdrawal also appears to be an option.

NO: Ted Piccone, senior fellow in Foreign Policy at the Brookings Institution, agrees in his testimony that the Council needs reform but also argues that its successes in promoting human rights have been generally underappreciated and that disengaging from the Council will only weaken it and thus undermine the Unites States' own goal of promoting human rights.

In March 2005, then Secretary-General of the United Nations, Kofi Annan, produced a report entitled "In Larger Freedom: Toward Security, Development and Human Rights for All." In the final section of his report, entitled "Strengthening the United Nations," Annan called for a number of reforms of the UN's main bodies, including one of its most controversial, the Commission on Human Rights (UNCHR).

Established in 1947, the UNCHR became the principal forum for the UN's promotion and protection of human rights. One of the Commission's first tasks was to establish a committee to draft the Universal Declaration of Human Rights (UNDHR), which was adopted by the General Assembly in December 1948. Composed of 30 articles outlining the fundamental human rights and freedoms of all individuals, regardless of nationality, place of residence, gender, national or ethnic origin, color, religion, language,

or any other status, the UNDHR is now generally agreed to be the foundation of all international human rights law. Since adopting the UNDHR, the UN has passed other major human rights treaties, such as the Convention against Torture and Convention on the Rights of the Child.

Despite all of this, in his 2005 report Kofi Annan acknowledged that the "system for protecting human rights at the international level [was] today under considerable strain." He believed that change was needed if the "United Nations [was] to sustain long-term, high-level engagement on human rights issues, across the range of the Organization's work" and thus decided to "make a proposal to transform the body which should be the central pillar of the United Nations human rights system—the Commission on Human Rights."

The UNCHR had received significant criticism over the years and was believed to be in need of reform for three principal reasons. First, states with highly questionable human rights records had continued to sit on the Commission so as to deflect criticism from their own records. Second, these states tended also to vote in blocs rather than assess situations as individual states. Third, bloc voting was most apparent in the UNHRC's tendency to criticize Israel more than any other state. This bias against Israel was even more disturbing considering the human rights records of the states conducting the voting.

Annan's reform proposal eventually led to the replacement of the UNCHR with a new Human Rights Council (UNHRC) in 2006. The new Council is significantly different from its predecessor. For one, it has only 47 members (down from 53), in the hope that a smaller body might be more efficient. Rather than simply being chosen to serve for unlimited three-year terms by the Economic and Social Council, candidates for the UNHRC are elected from the General Assembly by simple majority—and are only allowed to serve two consecutive terms. A member can also be suspended if it has been found to have committed "gross and systematic" human rights abuses by a ⅔ vote of the General Assembly.

Despite these changes, the United States did not vote in favor of creating the UNHRC and did not seek to join it once it was established. The decision to vote against it, and to not participate, was due to the U.S. belief that the changes had not gone far enough and that the Council was again suffering from the same character traits that had undermined the legitimacy of its predecessor. The relationship between the United States and the Council remained strained until the end of George W. Bush's second term.

The Obama administration adopted a different approach when it came into office in January 2009. In line with the more multilateral approach of the administration, the decision was taken to seek a seat on the Council in the May elections of that year, which it subsequently won. The administration recognized that the UNHRC was still a flawed body, but it hoped that it could achieve more by working within the body than complaining from outside. Though the relationship was sometimes strained by the Council's usual tendencies, in particular its constant condemnations of Israel, the United States retained its seat on the body.

With the election of Donald Trump in November 2016, the U.S. position appears to have become more strident. Speculation over whether the United States intends to leave the UNHRC has been rife during the first six months of his term. Members of the administration have been quoted widely vocalizing their willingness to consider leaving and thereby return to the strategy adopted by the George W. Bush administration. On June 1, 2017, Nikki Haley, the newly appointed U.S. Ambassador to the United Nations penned an op-ed piece in the Washington Post entitled "The U.N Human Rights Council whitewashes brutality." While celebrating the good things the UNHCR had achieved (like the creation of a human rights commission to investigate human rights abuses in Syria), Haley echoed old complaints of the Council regarding its membership, tendency to ignore human rights abuses of its own members and others, and of its singling out of Israel.

Five days after her op-ed article, Ambassador Haley addressed the UNHRC for the first time and gave a speech at the Graduate Institute of Geneva later that day, entitled "A Place for Conscience: the Future of the United States in the Human Rights Council." This speech forms the first selection in this issue. In her speech, Haley returns to the principal criticisms she levelled at the Council in her post op-ed, but provides greater context for them. In her speech, Haley says that "the US does not *seek* to leave" [my emphasis] the Council, but "will not sit quietly while it damages the cause of human rights." In the second selection, Ted Piccone agrees in his testimony to Congress that the UNHRC needs the reforms Haley is calling for, but also argues that its successes in promoting human rights have been generally underappreciated. Disengaging from the Council will thus only weaken it and undermine the United States' own goal of promoting human rights.

YES

Nikki Haley

A Place for Conscience: The Future of the United States in the Human Rights Council

The first chairman of the United Nations organization dedicated entirely to human rights was a chairwoman.

Eleanor Roosevelt was elected to head the Human Rights Commission when it first met in January 1947. She was a natural choice. Mrs. Roosevelt was already well known for her heartfelt advocacy for universal human rights. She was a woman of deep faith. Her nightly prayer asked God to quote, "make us sure of the good we cannot see, and of the hidden good in the world." Eleanor Roosevelt was an idealist. But she was no pushover.

The first item on the Commission's agenda was drafting the Universal Declaration of Human Rights. During the debate, the United States and the Soviet Union clashed repeatedly in some of the opening skirmishes of the Cold War. The Soviet delegate taunted Mrs. Roosevelt: How could the United States call itself a champion of human rights when African Americans were still discriminated against? To which Mrs. Roosevelt acknowledged that yes, the United States still had problems, and progress was being made.

And then she proposed a deal that quieted the Soviet delegate: She said the Soviets could send a delegation to observe the United States—if the United States could do the same to the Soviet Union. Of course, the Soviets never did and never would give free reign to a U.S. delegation. She was making a point. She was calling out a fellow commission member for using human rights as a cover for its political agenda.

Mrs. Roosevelt's vision of the Human Rights Commission was bigger than any one country. She saw the Commission as a place for conscience, not politics. She knew that if it was allowed to become a forum for hypocrisy and political point scoring, it would do more to hurt the cause of human rights than to help it.

My country has a unique beginning, founded on human rights, holding self-evident the truth that all men are created equal with rights to life, liberty, and the pursuit of happiness. Of course, America did not invent these rights—God did. Simply by our birth, human beings are endowed by our Creator with certain inalienable rights. These rights belong to all of us. They are not the gift of any government. They cannot legitimately be taken away by any government.

The American idea is that government exists to serve the people, not the other way around. Government should secure our rights, not violate them.

We continue striving to achieve this principle through self-government, using elections and the rule of law to hold our leaders accountable. The inherent dignity of the individual is not secured by words but by actions. This is the standard by which we judge ourselves as a nation—and by which we invite others to judge us as well.

It is this commitment to the equal worth of all human beings that leads the United States to support universal human rights. And of course we are not alone. There are many other nations, both on the Council and off, that affirm universal human rights and act to protect and extend them.

When the Human Rights Council has acted with clarity and integrity, it has advanced the cause of human rights. It has brought the names of prisoners of conscience to international prominence and given voice to the voiceless.

At times, the Council has placed a spotlight on individual country violators and spurred action, including convening emergency sessions to address the war crimes being committed by the Assad regime in Syria. The Council's Commission of Inquiry on North Korea led to the Security Council action on human rights abuses there.

The Council is at its best when it is calling out human rights violators and abuses, and provoking positive action. It changes lives. It pushes back against the tide of cynicism that is building in our world. And it reassures us that it deserves our continued investment of time and treasure.

But there is a truth that must be acknowledged by anyone who cares about human rights: When the Council fails to act properly—when it fails to act at all—it

Haley, Nikki. "A Place for Conscience: The Future of the United States in the Human Rights Council," *unsun.state.gov*, June 2017.

undermines its own credibility and the cause of human rights. It leaves the most vulnerable to suffer and die. It fuels the cynical belief that countries cannot put aside self-interest and cooperate on behalf of human dignity. It reenforces our growing suspicion that the Human Rights Council is not a good investment of our time, money, and national prestige.

Tragically, we've been down this road before.

In 2005, then Secretary-General Kofi Annan disbanded the precursor to the Human Rights Council, the Human Rights Commission. He blamed what he called its "credibility deficit." The description was well earned.

Many of the world's worst human rights offenders were elected to the seats on the Commission. They used those positions, not to advance human rights, but to shield themselves from criticism or to criticize others. In short, the Commission had lost the world's trust. It had stained and setback the cause of human rights.

These problems were supposed to have been fixed when the new Council was formed. Sadly, the case against the Human Rights Council today looks an awful lot like the case against the discredited Human Rights Commission over a decade ago.

Once again, over half the current member countries fail to meet basic human rights standards as measured by Freedom House. Countries like Venezuela, Cuba, China, Burundi, and Saudi Arabia occupy positions that obligate them to, in the words of the resolution that created the Human Rights Council, "uphold the highest standards" of human rights. They clearly do not uphold those highest standards. And once again, as with the disgraced and disbanded Human Rights Commission, the victims of the world's most egregious human rights violations are too often ignored by the very organization that is supposed to protect them.

In Venezuela, the government has systematically destroyed civil society through arbitrary detention, torture, and blatant violations of freedom of the press and freedom of expression. Children are starving to death. Mothers dig through trash cans to feed their families. This is a crisis that has been 18 years in the making. The Venezuelan people have been robbed of their human rights. And yet, not once has the Human Rights Council seen fit to condemn Venezuela.

Quite the contrary—the Council chose to showcase Venezuela's work while protestors were being beaten in the streets. Just two years ago, President Maduro was invited to address the Council, just weeks after Venezuela was reelected as a member.

In Cuba, the government continues to arrest and detain critics and human rights advocates. The government strictly controls the media and severely restricts the Cuban people's access to the Internet. Political prisoners by the thousands continue to sit in Cuban jails. Yet Cuba has never been condemned by the Human Rights Council. It, too, is a member country.

In fact, Cuba uses its membership in the Council as proof that it is a supporter of human rights, instead of a violator that it is. The Cuban deputy foreign minister called Cuba's 2016 reelection to the Human Rights Council, "irrefutable evidence of Cuba's historic prestige in the promotion and protection of all human rights for Cubans." This is a reversal of the truth that would make George Orwell blush. The list goes on.

In 2014, Russia invaded Ukraine and took over Crimea. This illegal occupation resulted in thousands of civilian deaths and injuries as well as arbitrary detentions. No special meeting of the Human Rights Council was called, and the abuses continue to mount.

Robert Mugabe continues his decades-long campaign of repression in Zimbabwe. Nothing from Geneva. Instead, human rights violators, Iran, Venezuela, and North Korea, took advantage of a Council review to commend Mugabe's so-called "promotion and protection of human rights."

The Human Rights Council has been given a great responsibility. It has been charged with using the moral power of universal human rights to be the world's advocate for the most vulnerable among us. Judged by this basic standard, the Human Rights Council has failed.

In case after case, it has been a forum for politics, hypocrisy, and evasion—not the forum for conscience that its founders envisioned. It has become a place for political manipulation, rather than the promotion of universal values. Those who cannot defend themselves turn to this Council for hope but are too often disappointed by inaction.

Once again, the world's foremost human rights body has tarnished the cause of human rights. The United Nations must now act to reclaim the legitimacy of universal human dignity.

For all of us, this is an urgent ask. Human rights are central to the mission of the United Nations. Not only are they the right thing to do, they're the smart thing to do.

I dedicated the U.S. presidency of the Security Council in April to making the connection between human rights and peace and security.

This is a cause that is bigger than any one organization. If the Human Rights Council is going to be an organization we entrust to protect and promote human rights, it must change. If it fails to change, then we must pursue the advancement of human rights outside of the Council.

America does not seek to leave the Human Rights Council. We seek to reestablish the Council's legitimacy.

There are a couple of critically necessary changes.

First, the UN must act to keep the worst human rights abusers from obtaining seats on the Council. As it stands, elections for membership to the Council are over before the voting even begins. Regional blocs nominate slates of predetermined candidates that never face any competition for votes.

No competition means no scrutiny of candidates' human rights records. We must change the elections so countries are forced to make the case for membership based on their records, not on their promises. Selection of members must occur out in the open for all to see. The secret ballot must be replaced with open voting. Countries that are willing to support human rights violators to serve on the Human Rights Council must be willing to show their faces. They know who they are. It's time for the world to know who they are.

Second, the Council's Agenda Item Seven must be removed. This, of course, is the scandalous provision that singles out Israel for automatic criticism. There is no legitimate human rights reason for this agenda item to exist. It is the central flaw that turns the Human Rights Council from an organization that can be a force for universal good into an organization that is overwhelmed by a political agenda.

Since its creation, the Council has passed more than 70 resolutions targeting Israel. It has passed just seven on Iran. This relentless, pathological campaign against a country that actually has a strong human rights record makes a mockery not of Israel, but of the Council itself. The Council's effort to create a database designed to shame companies for doing business in Israeli controlled areas is just the latest in this long line of shameful actions. Blacklisting companies without even looking at their employment practices or their contributions to local empowerment, but rather based entirely on their location in areas of conflict is contrary to the laws of international trade and to any reasonable definition of human rights. It is an attempt to provide an international stamp of approval to the anti-Semitic BDS movement. It must be rejected.

Getting rid of Agenda Item Seven would not give Israel preferential treatment. Claims against Israel could still be brought under Agenda Item Four, just as claims can be brought there against any other country. Rather, removal of Item Seven would put all countries on equal footing.

The Council is no more justified in having a separate agenda item on Israel than it is on having one for the United States, or Canada, or France, or the United Kingdom. More appropriate would be to have an agenda item on North Korea, Iran, and Syria, the world's leading violators of human rights.

These changes are the minimum necessary to resuscitate the Council as a respected advocate of universal human rights. For our part, the United States will not sit quietly while this body, supposedly dedicated to human rights, continues to damage the cause of human rights.

In the end, no speech and no structural reforms will save the members of the Human Rights Council from themselves. If they continue to put politics ahead of human rights, they will continue to damage the cause that they supposedly serve.

All those years ago, Mrs. Roosevelt understood this. She was engaged in building an institution to bring the nations of the world together to protect the most vulnerable. But she knew the good she was seeking would not come from that institution, but from the hearts of men and women who would work in it. Every night, she prayed: "Save us from ourselves and show us a vision of a world made new."

I believe that vision is still achievable. I believe we can come together. I know there are many who share the belief. The status quo is not acceptable. It is not a place for countries who champion human rights. I call on all like-minded countries to join in making the Human Rights Council reach its intended purpose.

Let the world be on notice: We will never give up the cause of universal human rights. Whether it's here, or in other venues, we will continue this fight.

Nikki Haley is the current U.S. Ambassador to the United Nations. She served as the Governor of South Carolina from 2011 to 2017.



Ted Piccone

NO

Testimony during Hearings on "Assessing the UN Human Rights Council"

Since its establishment in 2006, the Human Rights Council has carried out its mission to promote universal respect for the protection of all human rights in a myriad of both traditional and innovative ways. These include public scrutiny of every country's human rights performance in accordance with their international obligations; special sessions devoted to addressing gross and systematic violations in countries like Syria; fact-finding investigations; country visits by independent experts charged with monitoring issues ranging from violence against women to freedom of expression; and technical assistance and capacity building. As a political body representing the United Nation's highly diverse member states, it is both an invaluable instrument for human rights and an imperfect one. The best option for making it better is for the United States to stay actively engaged in shaping and influencing its work.

As a close observer of its activities since its creation over a decade ago, I will highlight a few of the areas where the Council has made progress over the last several years, and where it has fallen short. I will then make some observations regarding the importance of strong U.S. leadership at the Council by comparing its performance before and after the United States joined the body.

Areas of Progress

1. *Universal Periodic Review*: The Council has recently completed its second round of publicly examining the human rights record of every member of the United Nations. This unique mechanism allows, for the first time, an opportunity for any government to raise questions and make recommendations about any other government's human rights behavior. It brings recommendations from UN treaty bodies, independent experts, and civil society to the table for discussion in public hearings webcast around the world. The results so far are encouraging. Over time, more governments are making more action-oriented recommendations, and governments are accepting more of them. Notably, the five governments receiving the most UPR recommendations are among the most repressive in the world—Cuba, Iran, Egypt, North Korea, and Vietnam. This process provides a key point of leverage for human rights defenders on the ground and internationally to hold governments accountable to their promises. It also universalizes and depoliticizes human rights as a core obligation of international law. This is a vast improvement on its predecessor, the Commission on Human Rights, which scrutinized only a fraction of UN member states during its existence and only with great effort and controversy. Systematic follow-up and implementation, along with tying human rights diplomacy and assistance to the most important recommendations, are needed to continue this progress.
2. *Country-specific scrutiny*: While the UPR is an important step in the right direction, it certainly is not enough to fulfill the Council's mandate to address dire situations involving gross and systematic violations of human rights. To that end, the Council has dispatched more independent experts, known as special procedures, as well as fact-finding missions and commissions of inquiry to examine human rights abuses in some of the most urgent situations around the world. These include Iran, North Korea, Syria, Burundi, South Sudan, Sri Lanka, Burma, Cambodia, Libya, and Eritrea. Their reports provide authoritative findings on the complex patterns of violations, identification of responsible actors, and recommendations for accountability and reform. Between 2006 and 2015, the number of country-specific reports submitted by special procedures increased by 104 percent and the number of governments issuing standing invitations to these independent experts almost doubled to 114. Since 2006, the Council has convened

Piccone, Ted. "Testimony During Hearings on "Assessing the UN Human Rights Council," *U.S. Senate Committee on Foreign Relations*, May 2017.

26 special sessions devoted to urgent cases of human rights, which ⅓ of the Council's members can call at any time. These include two recent sessions on Syria and on South Sudan and one in 2014 on the atrocities committed by ISIS. Nonetheless, the Council has failed to act in the face of other urgent crises. To address this problem, the UNGA could allow the Secretary General, the High Commissioner for Human Rights, or the Security Council to request Council action on particularly urgent country situations.

3. *Commissions of inquiry*: The Council is establishing a growing number of commissions of inquiry to serve as independent fact-finding bodies to investigate grave violations of human rights, including crimes against humanity, and to identify perpetrators for the purpose of holding them accountable. This instrument is designed to document violations and victims quickly, before evidence is destroyed or witnesses lost, and to begin a process of accountability in situations where national authorities are unwilling or incapable of conducting proper investigations or trials. Since 2011, the Council has created 17 such commissions covering a diverse array of countries from Cote d'Ivoire to Sri Lanka. The commission on North Korea delivered a trailblazing 400-page report in 2014 documenting crimes against humanity—including murder, torture, rape, enslavement, forced abortions, and knowingly causing prolonged starvation—carried out at the highest levels of government. The report triggered unprecedented attention by the UN Security Council, creation of a UN human rights field office in Seoul and, more recently, targeted sanctions by the U.S. government. The commission of inquiry on Syria, with support from a new supplemental body of experts recently established by the UN General Assembly, is preparing files on specific individuals responsible for massive human rights violations in that conflict so that, one day, there might be accountability for the victims under international criminal law.
4. *Access to civil society*: The Human Rights Council is known as the most open and accessible body in the entire UN structure. This is precisely as it should be given that every human being is entitled to human rights under international law and deserves a chance to be heard. With the Council meeting three times a year in regular session, plus UPR and special sessions, side events, expert panels, and a regular call for submissions from nongovernmental organizations, civil society has a special year-round place in the Council's activities. With the support of the Office of the High Commissioner for Human Rights (OHCHR), the Council's programs are ever more transparent through its website and webcasting facilities. Special rapporteurs routinely reach out to civil society activists and experts on their country missions, a key ingredient for ensuring their work is relevant to human rights defenders on the ground. UPR is also opening new doors for human rights activists to make their case directly to government officials for reforms that meet international standards and establishing systematic follow-up reviews.

Shortcomings and Options for Reform

1. *Membership*: The UN General Assembly is responsible for electing members to the Council based on "the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments made thereto." In addition, once elected, members are charged with upholding "the highest standards in the promotion and protection of human rights" and "shall fully cooperate with the Council." Sitting members that commit gross and systematic human rights violations can be suspended by the General Assembly. These criteria were intended to fix a recurring problem, which plagued the predecessor Commission on Human Rights, of members unwilling to honor or, worse, subverting the human rights promotion mission of the body. With the reallocation of seats geared more to Africa and Asia in 2006, these rules were also meant to guard against a predominant influence by nondemocratic states uncommitted to the UN's human rights pillar. Currently, about 45 percent of Council members are rated as free in Freedom House's annual ratings and 23 percent are graded as not free.

   Unfortunately, now with over 10 years of experience, we can say that the membership results are disappointing. Time and again, member states elect candidates who do not meet the election criteria, even in the face of concrete evidence that they are not fully cooperating with the Council's mechanisms. Even worse, states are unwilling to exercise the suspension option, as in the case of Burundi last year. Regional blocs too often put forward clean slates that give the General Assembly no real alternatives. We know that when slates are competitive, the UNGA has voted to deny seats to some of the world's worst human rights performers; even Russia,

a P-5 Security Council member, was defeated last November after its bombing of civilians in Aleppo, Syria. Thanks to competitive slates, other states have been defeated or chose to withdraw in the face of likely defeat, including Sudan, Iran, Syria, Azerbaijan, and Belarus.

To address the membership problem, the United States and its democratic allies in the Community of Democracies should redouble their efforts to recruit other like-minded states to run, especially the many electoral democracies that have never sought a seat on the Council.

They should build consensus in the GA for new rules that would mandate competitive slates for membership and lead by example in their own regional blocs. In cooperation with OHCHR, they should use the annual elections process as an opportunity to shine a bright light on the states that are not fully cooperating with the Council. Where regional slates are closed, the United States mission in New York should lead efforts to block the worst offenders from reaching the minimum 97 affirmative votes needed to be elected. Like-minded states should also increase their contributions to the Council's special assistance fund established to help small island and low-income states fulfill the heavy demands of membership. Finally, in egregious cases, they should mobilize support to remove a state responsible for gross and systematic abuses, as they did with Libya in 2011.

In the meantime, it is worth remembering that the Council continues to take robust action against states that commit grave violations, over the objections of members like China, Saudi Arabia, Egypt, Burundi, Cuba, and Venezuela. This is thanks to determined efforts by the United States and other like-minded governments to build cross-regional coalitions for action. When the Council adopts these measures by consensus—most recently this past March in the cases of South Sudan, Myanmar, and North Korea—the moral and political voice of the Council is even stronger.

2. *Israel/Palestine*: We can all agree that having Israel's occupation of Palestine (OPT) as a permanent item on the Council's agenda (item 7) is patently biased and unfair. The annual ritual of singling out Israel for violations committed in the course of its five decades-long occupation of the Palestinian territories is hypocritical and violates the letter and spirit of the Council's principles of "objectivity and non-selectivity." It is long past time for moving Israel/OPT resolutions to the regular agenda item that deals with country situations, like any other country, and to reduce the number of Israel/OPT resolutions to a manageable and proportionate size. A serious negotiation should take place, perhaps led by the High Commissioner for Human Rights, with mediating support from states like Norway and Morocco that would bring together Israel, Palestine, and the Arab states for this purpose. The United States might help play a supporting role in brokering such an agreement as part of an early confidence-building step in an Arab/Israeli peace process. I agree, however, with the Council on Foreign Relations report published earlier this year that Congress should avoid conditioning its membership on the Council on eliminating item 7—it's the wrong tool for the right goal.
3. *Protecting human rights defenders from reprisals*: As noted previously, the Council's mechanisms are the most open and accessible of any body at the United Nations. But several problems remain. NGO representatives invited to speak at the Council are too often interrupted with harassing points of order from repressive delegations. Reprisals against human rights defenders who cooperate with the Council are much too frequent. Any state found to be responsible for such reprisals, and which fails to rectify them, should be disqualified from sitting on the Council. Finally, the UN member states must fix the broken process of granting accreditation to civil society organizations. The UN NGO Committee in New York routinely has failed to discharge its duties in this regard and has become a tool for authoritarian states that fail to uphold basic norms of freedom of association in their own countries. If Congress wants to improve this situation, it should instruct our mission in New York to work with the Community of Democracies to lobby for a complete overhaul of the accreditation system to take it out of the hands of diplomats and give it to professional experts qualified to make the technical assessments needed to give civil society a greater voice at the United Nations.

U.S. Leadership

We know from years of experience in the field of human rights diplomacy that when the United States puts its shoulder to the wheel and adopts smart and constructive strategies to promote and protect human rights, it can succeed. We also know that when Washington decides to withdraw, as it did during the Council's early years from 2006 to 2009, the results can be disastrous for our interests and that of our allies.

During negotiations for creation of the Council, the Bush administration fought hard for a smaller body

composed of strong human rights defenders and other reforms. When it did not achieve all its goals, the administration decided that the outcome was not worth their time and yielded the floor to the likes of Pakistan, Egypt, Algeria, Saudi Arabia, Cuba, and others who were bent on manipulating the rules to castigate Israel and reduce scrutiny of other flagrant abusers. Unfortunately, they succeeded. During the U.S. absence, the Council indeed took action to make "the human rights situation in Palestine and other occupied Arab territories" a permanent agenda item. During the three-year period when we were absent, the Council's members also convened no less than six special sessions on Israel's behavior and established two commissions of inquiry on Israel's record in the Gaza conflict and elsewhere. Beyond Israel, the Council in 2009 shamefully convened a special session on Sri Lanka's bloody termination of its conflict with the Tamil National Liberation Front that ended up praising the government's anti-terrorism record. It also terminated mandates of independent experts monitoring human rights violations in Cuba and Belarus.

In 2009, the Obama administration decided to rejoin the Council and devoted significant diplomatic efforts to address its shortcomings. The United States won reelection to a second three-year term in 2012 and after a mandatory year off rejoined the body this year. The impressive results of this activism are a tangible reminder that U.S. leadership does make a difference in advancing both our values and our interests. To give a few examples, the number of special sessions called on Israel dropped from six during the three years before we joined the Council to one during our first two terms as a member; a similar decrease in the proportion of country resolutions and commissions of inquiry devoted to Israel occurred, along with a corresponding increase in attention to dire cases like Iran, North Korea, and Syria. Israel now participates in the Western European regional bloc and in the Universal Periodic Review and relies heavily on the United States to defend it from biased scrutiny by boycotting item 7 sessions, voting against unfair resolutions and lobbying others to join them.

Since the United States became a member in late 2009, the Council has also undertaken the following actions:

- Reestablished special procedures mandates for Belarus and Iran (the Iran mandate was terminated in 2002 after the United States lost a bid for a seat on the former Commission on Human Rights). The two special rapporteurs on Iran have filed hard-hitting reports on the woeful human rights situation there, most recently citing Iran's extremely high rate of executions, constraints on an independent judiciary, violations of due process, women's rights, and systematic discrimination against religious minorities. The Belarus mandate remains the sole international monitoring mechanism on the country.
- Established a commission of inquiry on North Korea, a more intensive mechanism to address that country's alarming human rights situation, by unanimous vote. The commission's final report relied on over 300 interviews and satellite imagery to document crimes against humanity and singled out Kim Jong-un for his responsibility in such violations as forced labor, sexual violence, and persecution of Christians and other religious minorities. Despite objections from Russia and China, the Security Council agreed to elevate North Korea's human rights situation to its regular agenda. This was a historic step, establishing the incontrovertible link between human rights and international peace and security, a point that Ambassador Nikki Haley made effectively during the recent U.S. Presidency of the Security Council.
- Mandated a special OHCHR investigation into issues of accountability and reconciliation in Sri Lanka that restored momentum to the movement to address the government's shortcomings in this area. With the election of President Sirisena in 2015, who promised to restore the country's international standing, Sri Lanka is more open to international human rights monitoring and assistance.
- Convened four special sessions on the crisis in Syria and, in August 2011, created a commission of inquiry that continues to document the atrocities of the main parties to the conflict that eventually can be used to hold the perpetrators accountable under international criminal law. The COI's list of Syrian individuals and groups allegedly responsible for war crimes already is paving the way for judicial proceedings against foreign fighters in at least three European countries.
- Adopted important new norms and monitoring in such areas as protecting freedom of association and assembly against the growing attacks on civil society and human rights defenders; preventing violence and discrimination based on sexual orientation and gender identity (SOGI); combating religious intolerance while protecting freedom of expression; and condemning for the first time governments that intentionally block or disrupt access to the Internet. The SOGI resolution also broke new ground in appointing an independent expert to conduct country visits to assess the status of LBGT rights, engage activists and governments, and provide reports and recommendations to the Council and the General Assembly.

These are just some of the many concrete deliverables that, simply put, would not have been possible without sustained and creative leadership by the United States. As documented in detail in the Council on Foreign Relations report of January 2017, in every case summarized above, our diplomats worked publicly and behind the scenes to forge cross-regional coalitions, draft pathbreaking resolutions, engage and defend civil society, and make the case for why the international community can make a difference in protecting human rights on the ground. Key to this record of success was appointment and Senate confirmation of a U.S. Ambassador dedicated to the hard work of building coalitions, improving membership, and speaking out for continued reforms. The evidence against U.S. withdrawal from the body is clear—its absence from the Council's deliberations during the first three years of its existence led to serious setbacks on multiple fronts, including the body's preponderant focus on Israel.

Conclusion

In the end, the United States faces a clear choice: between engaging strategically as a principled catalyst through the international human rights system and withdrawing to its own corner and letting authoritarian states weaken and dismantle that system. There should be no doubt in anyone's mind that they are ready and willing to do so. Promoting and protecting human rights is too important to our national interests to be left to the spoilers and the naysayers.

The Council, we should recall, is but one instrument in our repertoire of tools to advance human rights around the world. But as demonstrated by the examples above, and even with its faults, it remains the only global human rights body with the legitimacy and universality to extend fundamental principles of human dignity to every corner of the world. Working alongside the High Commissioner for Human Rights, who is doing a remarkable job in calling the world's attention to the most serious human rights situation, and our dedicated corps of diplomats in Geneva, New York, Washington, and abroad, the United States should stay actively engaged and build on the Council's proven track record of progress. It deserves Congress's continued support, now more than ever.

Ted Piccone is a senior fellow in Foreign Policy at the Brookings Institution.



EXPLORING THE ISSUE

Should the United States Consider Leaving the UN Human Rights Council?

Critical Thinking and Reflection

1. Should the U.S. refuse to participate in the UNHRC until its reform demands are met?
2. Do you think U.S. membership of the UNHRC legitimizes a body full of some of the world's worst human rights abusers?
3. Is Israel unfairly treated by the UNHRC?
4. What are the alternatives to working through the UNHRC to promote and protect human rights?

Is There Common Ground?

There does appear to be a great deal of common ground between the authors of this issue's selections. Both appreciate the importance of having a UN body dedicated to the promotion and protection of human rights. Both also agree that the UNHRC is an improvement on its predecessor, although Piccone obviously believes the improvements, and actual achievements, of the UNHRC have been more impressive than Ambassador Haley does. Both authors also agree on the reforms that would make the UNHRC more legitimate and effective; in particular, introducing more competitive membership elections and removing Item Seven from the permanent agenda.

Nevertheless, the authors diverge on their appreciation of the success of U.S. engagement with the UNHRC over the past eight years. While Piccone documents major improvements during that time, Haley's tendency is to focus on the failure of the UNHRC to make the changes she feels are necessary to make it a more credible body. It also appears that her language is chosen very carefully to technically omit a threat to leave, while still conveying a willingness to do so should the body not reform sufficiently. As with the Iran nuclear agreement and the Paris Accords, it seems the new administration has a deep suspicion of international institutions.

Additional Resources

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https://www.brookings.edu/opinions/5-myths-about-the-u-n-human-rights-council/

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UN Human Rights Council

http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx



Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Is U.S. Refusal to Join the International Criminal Court Justifiable?

YES: **Brett Schaefer and Steven Groves,** from "The U.S. Should Not Join the International Criminal Court," *The Heritage Foundation* (2009)

NO: **Michael P. Scharf,** from "Is a U.N. International Criminal Court in the U.S. National Interest?" Testimony before the Subcommittee on International Operations of the Committee on Foreign Relations, *U.S. Senate* (1998)

Learning Outcomes

After reading this issue, you will be able to:

- Explain the evolution of international criminal courts after World War II.
- Explain the structure and jurisdiction of the ICC.
- Assess the importance of the ICC in the achievement of international justice.
- Assess the role of the ICC in the achievement of international peace and security.

ISSUE SUMMARY

YES: Brett Schaefer, the Jay Kingham fellow in international regulatory affairs at the Heritage Foundation, and Steven Groves, the Bernard and Barbara Lomas fellow at the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies at the Heritage Foundation, contend that although the court's supporters have a noble purpose, there are a number of reasons to be cautious and concerned about how ratification of the Rome Statute would affect U.S. sovereignty and how ICC action could affect politically precarious situations around the world.

NO: Michael P. Scharf, a professor of law at and director of the Center for International Law and Policy, New England School of Law, argues in testimony given just after the establishment of the ICC was finalized by the Conference at Rome and sent to the world's countries for adoption (ratification) that while the United States did not get everything it wanted in the Treaty of Rome creating the ICC, it is a worthwhile step forward toward global justice.

Historically, international law has focused on states. However, individuals and non-state groups have increasingly become recognized subjects of international law and thus more accountable under it. This is especially the case in international criminal law, which seeks to prosecute those who commit grave human rights violations (whether they are committed during times of war or peace). The first real demonstration of the principal of individual accountability under international criminal law occurred during the Nuremberg and Tokyo war crimes trials after World War II, in which thousands of individuals were tried and convicted for various war crimes (hundreds were executed).

There were no further war crimes tribunals until the 1990s, when the United Nations (UN) established ad hoc tribunals to try those accused of committing atrocities in Cambodia (1975–1979), the former Yugoslavia

(1992–1995), Rwanda (1994), and Sierra Leone (from 1996). Ad hoc courts like these have very limited jurisdictions. They are created to prosecute crimes committed during a specific time-period and/or on a specific territory. For example, the International Criminal Tribunal for Rwanda was established to try crimes committed on Rwandan territory (or by Rwandans in neighboring states) between January and December 1994.

Despite their limitations, ad hoc tribunals have made significant strides in asserting individual accountability, especially over those in positions of power. For example, in all four of the cases above, former heads of state have been either indicted or prosecuted by their respective courts. In the case of the International Criminal Tribunal for the Former Yugoslavia, the former president of Serbia, Slobodan Milosevic, died of a heart attack while in custody in 2006. In the case of the Special Court for Sierra Leone, the former president of Liberia, Charles Taylor, was convicted and sentenced to 50 years imprisonment in April 2012 for his support for rebels in Sierra Leone who were responsible for perpetrating horrendous atrocities against their own people.

Though supporters of international justice have applauded these developments, many still felt that such ad hoc courts were incapable of ensuring the effective enforcement of international human rights law. They therefore worked toward the establishment of the world's first permanent international criminal tribunal, which was achieved in 2002 with the creation of the International Criminal Court (ICC). Located in the Peace Palace in The Hague, The Netherlands, the ICC's founding document, the Rome Statute (which has been open for signature since 1998), has now been signed and ratified by 124 countries. Just over 30 countries have signed, but not yet ratified the Statute, including the Russian Federation. Some, including China, India, North Korea, Saudi Arabia, Pakistan, and Indonesia have never signed it.

The United States, Sudan, and Israel have all withdrawn their signatures after initially signing it. In the case of the United States, the Clinton administration signed it in 2000, but never presented it for Senate ratification. In 2002, the George W. Bush administration submitted a formal letter of withdrawal from the Court and launched an effort to persuade other countries to sign "Article 98" agreements by which countries agree not to surrender U.S. citizens to the ICC.

The organizational structure of the ICC is principally composed of an Assembly of State Parties, three judicial divisions (a pre-trial division, a trial division, and an appeals division) with a total of 18 judges and an Office of the Prosecutor. The Prosecutor can initiate an investigation on the basis of a referral from any state party or from the United Nations Security Council (under Chapter VII of the UN Charter). In addition, the Prosecutor can initiate investigations on the basis of information on crimes (within the jurisdiction of the Court) received from individuals or organizations, but only if they can persuade a Pre-Trial Chamber (usually composed of three judges) that a sufficient case exists.

The jurisdiction of the ICC covers four types of crimes: genocide, crimes against humanity, war crimes, and acts of aggression. The crime of genocide is defined as an atrocity "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group." The prosecution of this crime thus rests on the ability to prove the "intent" of the perpetrator. Contrary to popular understanding, genocide does not therefore require the massacre of large numbers of innocents. It does not even require killing at all. For instance, genocide includes "imposing measures intended to prevent births within the group" and "forcibly transferring children of the group to another group." As one can see, it is the *intent* of the perpetrator and not the scale of the crime that is the defining factor in the crime of genocide.

A crime against humanity is defined by the Rome Statute as one of a number of acts "committed as part of a widespread or systematic attack against any civilian population, with knowledge of the attack." In this case, it is the manner or scale of the crime that is its defining feature. Acts which constitute a crime against humanity when conducted in this way include murder, enslavement, imprisonment, torture and rape, among others. War crimes are crimes committed against international humanitarian law. They are thus defined in the Rome Statute as "grave breaches of the Geneva Conventions . . . in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes." Breaches of the Geneva Conventions include such crimes as willful killing, torture, depriving prisoners of war over their legal rights, and the extensive destruction and appropriation of property.

As the ICC's Assembly of State Parties was unable to agree on a definition for the crime of aggression by the time the Court began operation, it was left to subsequent review conferences to do so. A definition was eventually agreed in 2010 as "the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State" and "which, by its character, gravity and scale, constitutes a manifest violation" of the UN Charter. However, in recognition of the sensitivity that many states still exhibit on this issue, the Court could not exercise jurisdiction over this crime until 2017 and only then after at least 30 State Parties had ratified the requisite amendment to the Statute. This latter requirement was met

in 2016, but hesitancy among its most powerful membership (including lobbying by the United States as an active observer) has caused the issue to be delayed until the next Assembly of State Parties meeting in December 2017.

The ICC's jurisdiction extends to any of the crimes described above when committed by a national of a state party, or when committed on the territory of a state party, or under any circumstances referred to the Court by the UN Security Council. The Court can only prosecute crimes committed after it was founded in 2002. Also, under the principle of "complementarity," the ICC can only exercise its jurisdiction when a state party (of which the accused is a national) is unable or unwilling to prosecute. The ICC is thus designed as a court of "last resort." The Rome Statute also provides the UN Security Council with the power to delay a prosecution for a period of 12 months through the normal voting procedures under Chapter VII of the UN Charter.

Opposition to the ICC in the United States has taken two principle forms. The first is a general opposition to the United States participating in international institutions that might threaten its sovereignty and limit its freedom to act. The principle fears in this regard are that US leaders will be prosecuted in politically motivated trials and that US political and military leaders will be restrained in their foreign policy decisions by the fear of future prosecutions. For this reason, the United States has been particularly sensitive to the on-going debate over the crime of aggression. The second form of opposition concerns provisions in the Rome Statute that might undermine the legal safeguards that US citizens enjoy in their own constitution. These include the protection against double jeopardy, the right to trial by an impartial jury, and the right of the accused to confront the witnesses against them.

For both these reasons, the United States has always felt that ICC prosecutions should require a Security Council referral. This, of course, would allow it to use its veto to prevent prosecutions it thought were inappropriate. In effect, by not joining the Court, the United States, China, and Russia have all achieved a *de facto* veto over the prosecution of their own nationals, as a Security Council referral would be required to do so (this is not the case if the crimes are committed on the territory of a state party). However, the two-tier justice system this has created is threatening to undermine the credibility of the Court. In 2016, Burundi, Gambia, and South Africa all announced their intention to leave the Court due to its unfair concentration on African cases. Of the 10 "situations under investigation" by the Court as of 2017, only one lies outside the African continent. The African Union also passed a nonbinding resolution calling for a mass withdrawal of its member states from the Court in January 2017 for the same reason.

The question being debated in this issue is thus very important for the United States and the future of the ICC itself. Though they agree that the Court has a noble purpose, the authors of the first selection, Brett Schaefer and Steven Groves, believe the United States should be cautious about joining it due to its lack of safeguards against political manipulation, its sweeping authority and unaccountability to the UN Security Council. In the second selection, Michael Scharf takes the view that while the ICC may cause some concerns for Americans, it is still a major advance in world justice that seeks to punish and deter those who commit horrendous crimes. While Sharf's testimony was given soon after the founding of the ICC treaty, his comments are as relevant now as they were then.



YES

Brett Schaefer and Steven Groves

The U.S. Should Not Join the International Criminal Court

The idea of establishing an international court to prosecute serious international crimes—war crimes, crimes against humanity, and genocide—has long held a special place in the hearts of human rights activists and those hoping to hold perpetrators of terrible crimes to account. In 1998, that idea became reality when the Rome Statute of the International Criminal Court was adopted at a diplomatic conference convened by the U.N. General Assembly. The International Criminal Court (ICC) was formally established in 2002 after 60 countries ratified the statute. The ICC was created to prosecute war crimes, crimes against humanity, genocide, and the as yet undefined crime of aggression. Regrettably, although the court's supporters have a noble purpose, there are a number of reasons to be cautious and concerned about how ratification of the Rome Statute would affect U.S. sovereignty and how ICC action could affect politically precarious situations around the world.

Among other concerns, past U.S. Administrations concluded that the Rome Statute created a seriously flawed institution that lacks prudent safeguards against political manipulation, possesses sweeping authority without accountability to the U.N. Security Council, and violates national sovereignty by claiming jurisdiction over the nationals and military personnel of non-party states in some circumstances. These concerns led President Bill Clinton to urge President George W. Bush not to submit the treaty to the Senate for advice and consent necessary for ratification. After extensive efforts to change the statute to address key U.S. concerns failed, President Bush felt it necessary to "un-sign" the Rome Statute by formally notifying the U.N. Secretary-General that the U.S. did not intend to ratify the treaty and was no longer bound under international law to avoid actions that would run counter to the intent and purpose of the treaty. Subsequently, the U.S. took a number of steps to protect its military personnel, officials, and nationals from ICC claims of jurisdiction.

Until these and other concerns are fully addressed, the Obama Administration should resist pressure to "re-sign" the Rome Statute, eschew cooperation with the ICC except when U.S. interests are affected, and maintain the existing policy of protecting U.S. military personnel, officials, and nationals from the court's illegitimate claims of jurisdiction. Nor should the Obama Administration seek ratification of the Rome Statute prior to the 2010 review, and then only if the Rome Statute and the ICC and its procedures are amended to address all of the serious concerns that led past U.S. Administrations to oppose ratification of the Rome Statute.

Background

The United States has long championed human rights and supported the ideal that those who commit serious human rights violations should be held accountable. Indeed, it was the United States that insisted—over Soviet objections—that promoting basic human rights and fundamental freedoms be included among the purposes of the United Nations. The United States also played a lead role in championing major international efforts in international humanitarian law, such as the Geneva Conventions.

The U.S. has supported the creation of international courts to prosecute gross human rights abuses. It pioneered the Nuremburg and Tokyo tribunals to prosecute atrocities committed during World War II. Since then, the U.S. was a key supporter of establishing the ad hoc International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR), which were both approved by the Security Council.

Continuing its long support for these efforts, the U.S. initially was an eager participant in the effort to create an International Criminal Court in the 1990s. However, once negotiations began [in 1998] on the final version of the Rome Statute, America's support waned because many of its concerns were ignored or opposed outright. According to David J. Scheffer, chief U.S. negotiator at the 1998 Rome conference:

> In Rome, we indicated our willingness to be flexible. . . . Unfortunately, a small group of countries, meeting behind closed doors in the final days of

Schaefer, Brett; Groves, Steven. "The U.S. Should Not Join the International Criminal Court," *The Heritage Foundation Backgrounder*, August 18, 2009. Copyright ©2009 by The Heritage Foundation. Used with permission.

> the Rome conference, produced a seriously flawed take-it-or-leave-it text, one that provides a recipe for politicization of the court and risks deterring responsible international action to promote peace and security.

In the end, despite persistent efforts to amend the Rome Statute to alleviate U.S. concerns, the conference rejected most of the changes proposed by the U.S., and the final document was approved over U.S. opposition.

Since the approval of the Rome Statute in 1998, U.S. policy toward the ICC has been clear and consistent: The U.S. has refused to join the ICC because it lacks prudent safeguards against political manipulation, possesses sweeping authority without accountability to the U.N. Security Council, and violates national sovereignty by claiming jurisdiction over the nationals and military personnel of non-party states in some circumstances.

The United States is not alone in its concerns about the ICC. As of August 6, 2009, only 110 of the 192 U.N. member states had ratified the Rome Statute. In fact, China, India, and Russia are among the other major powers that have refused to ratify the Rome Statute out of concern that it unduly infringes on their foreign and security policy decisions—issues rightly reserved to sovereign governments and over which the ICC should not claim authority.

The ICC's Record

The International Criminal Court has a clear legal lineage extending back to the Nuremburg and Tokyo trials and ad hoc tribunals, such as the ICTY and the ICTR, which were established by the U.N. Security Council in 1993 and 1994, respectively. However, the ICC is much broader and more independent than these limited precedents. Its authority is not limited to disputes between governments as is the case with the International Court of Justice (ICJ) or to a particular jurisdiction as is the case with national judiciaries. Nor is its authority limited to particular crimes committed in a certain place or period of time as was the case with the post-World War II trials and the Yugoslavian and Rwandan tribunals.

Instead, the ICC claims jurisdiction over individuals committing genocide, crimes against humanity, war crimes, and the undefined crime of aggression. This jurisdiction extends from the entry into force of the Rome Statute in July 2002 and applies to all citizens of states that have ratified the Rome Statute. However, it also extends to individuals from countries that are not party to the Rome Statute if the alleged crimes occur on the territory of an ICC party state, the non-party government invites ICC jurisdiction, or the U.N. Security Council refers the case to the ICC.

International lawyers Lee Casey and David Rivkin point out that the ICC is a radical departure from previous international courts [because] "It has jurisdiction over individuals, including elected or appointed government officials, and its judgments may be directly enforced against them, regardless of their own national constitutions or court systems."

> Moreover, the court's structure establishes few, if any, practical external checks on the ICC's authority. Among the judges' responsibilities are determining whether the prosecutor may proceed with a case and whether a member state has been "unwilling or unable genuinely to carry out the investigation or prosecution," which would trigger the ICC's jurisdiction under the principle of "complementarity," which is designed to limit the court's power and avoid political abuse of its authority. Thus, the various arms of the ICC are themselves the only real check on its authority.

Even though the Rome Statute entered into force in July 2002, there is little concrete basis for judging the ICC's performance. Shortly after its formal establishment, the ICC began receiving its first referrals. Currently, the ICC has opened four cases, involving situations in the Democratic Republic of Congo (DRC), Uganda, the Central African Republic, and Darfur, Sudan.

As an institution, the ICC has performed little, if any, better than the ad hoc tribunals that it was created to replace. Like the Rwandan and Yugoslavian tribunals, the ICC is slow to act. The ICC prosecutor took six months to open an investigation in Uganda, two months with the DRC, over a year with Darfur, and nearly two years with the Central African Republic. It has yet to conclude a full trial cycle more than seven years after being created. Moreover, like the ad hoc tribunals, the ICC can investigate and prosecute crimes only after the fact. The alleged deterrent effect of a standing international criminal court has not ended atrocities in the DRC, Uganda, the Central African Republic, or Darfur, where cases are ongoing. Nor has it deterred atrocities by Burma against its own people, crimes committed during Russia's 2008 invasion of Georgia (an ICC party), ICC party Venezuela's support of leftist guerillas in Colombia, or any of a number of other situations around the world where war crimes or crimes against humanity may be occurring.

Another problem is that the ICC lacks a mechanism to enforce its rulings and is, therefore, entirely dependent on governments to arrest and transfer perpetrators to the court. However, such arrests can have significant diplomatic consequences, which can greatly inhibit the efficacy of the court in pursuing its warrants and prosecuting outstanding

cases. The most prominent example is Sudanese President Bashir's willingness to travel to other countries on official visits—thus far only to non-ICC states—despite the ICC arrest warrant. This flaw was also present with the ICTY and the ICTR, although they could at least rely on a Security Council resolution mandating international cooperation in enforcing their arrest warrants. In contrast, the Nuremburg and Tokyo tribunals were established where the authority of the judicial proceedings could rely on Allied occupation forces to search out, arrest, and detain the accused.

The Myth of Bush Administration Intransigence

The U.S. refusal to ratify the Rome Statute has been mischaracterized by ICC proponents as solely a Bush Administration policy. In fact, the Clinton Administration initiated the U.S. policy of distancing itself from the ICC. According to David J. Scheffer, Ambassador-at-Large for War Crimes Issues under the Clinton Administration:

> Foreign officials and representatives of nongovernmental organizations tried to assure us in Rome that procedural safeguards built into the treaty—many sought successfully by the United States—meant that there would be no plausible risk to U.S. soldiers. We could not share in such an optimistic view of the infallibility of an untried institution. . . .

President Clinton himself acknowledged the treaty's "significant flaws" and recommended that President Bush not submit the treaty to the Senate for advice and consent. When President Clinton authorized the U.S. delegation to sign the Rome Statute on December 31, 2000, it was not to pave the way for U.S. ratification, but solely to give the U.S. an opportunity to address American concerns about the ICC. As Clinton said at the time in his signing statement:

> In signing, however, we are not abandoning our concerns about significant flaws in the treaty. In particular, we are concerned that when the court comes into existence, it will not only exercise authority over personnel of states that have ratified the treaty but also claim jurisdiction over personnel of states that have not. With signature, however, we will be in a position to influence the evolution of the court. Without signature, we will not.

After adoption of the Rome Statute in 1998, both the Clinton and Bush Administrations sought to rectify the parts of the statute that precluded U.S. participation. Specifically, the U.S. actively participated in the post-Rome preparatory commissions, hoping to address its concerns. As former U.S. Under Secretary for Political Affairs Marc Grossman noted:

> After the United States voted against the treaty in Rome, the U.S. remained committed and engaged—working for two years to help shape the court and to seek the necessary safeguards to prevent a politicization of the process. While we were able to make some improvements during our active participation in the UN Preparatory Commission meetings in New York, we were ultimately unable [to] obtain the remedies necessary to overcome our fundamental concerns. . . .

The consequences of failing to change the objectionable provisions of the Rome Statute became acute when the 60th country ratified the treaty, causing the statute to enter into force in July 2002. Faced with the prospect of a functioning International Criminal Court that could assert jurisdiction over U.S. soldiers and officials in certain circumstances, the Bush Administration and Congress took steps to protect Americans from the court's jurisdiction, which the U.S. did not recognize. For instance, Congress passed the American Service-Members' Protection Act of 2002 (ASPA), which restricts U.S. interaction with the ICC and its state parties by:

- Prohibiting cooperation with the ICC by any official U.S. entity, including providing support or funds to the ICC, extraditing or transferring U.S. citizens or permanent resident aliens to the ICC, or permitting ICC investigations on U.S. territory.
- Prohibiting participation by U.S. military or officials in U.N. peacekeeping operations unless they are shielded from the ICC's jurisdiction.
- Prohibiting the sharing of classified national security information or other law enforcement information with the ICC.
- Constraining military assistance to ICC member states, except NATO countries and major non-NATO allies and Taiwan, unless they entered into an agreement with the U.S. not to surrender U.S. persons to the ICC without U.S. permission.
- Authorizing the President to use "all means necessary and appropriate" to free U.S. military personnel or officials detained by the ICC.

Congress also approved the Nethercutt Amendment to the foreign operations appropriations bill for fiscal year 2005, which prohibited disbursement of selected U.S. assistance to an ICC party unless the country has entered into a bilateral agreement not to surrender U.S. persons to

the ICC (commonly known as an Article 98 agreement) or is specifically exempted in the legislation. Both ASPA and the Nethercutt Amendment contained waiver provisions allowing the President to ignore these restrictions with notification to Congress. In recent years, Congress has repealed or loosened restrictions on providing assistance to ICC state parties that have not entered into Article 98 agreements with the U.S. However, other ASPA restrictions remain in effect.

The Bush Administration signed these legislative measures and undertook several specific efforts to fulfill the mandates of the legislation and to protect U.S. military personnel and officials from potential ICC prosecution.

Possible Legal Obligations from Signing the Rome Statute

Under Article 18 of the Vienna Convention on the Law of Treaties, the Bush Administration determined that its efforts to protect U.S. persons from the ICC could be construed as "acts which would defeat the object and purpose of a treaty." To resolve this potential conflict, the U.S. sent a letter to U.N. Secretary-General Kofi Annan, the depositor for the Rome Statute, stating that it did not intend to become a party to the Rome Statute and declaring that "the United States has no legal obligations arising from its signature" of the Rome Statute. This act has been described as "un-signing" the Rome Statute. As John Bellinger, former Legal Advisor to Secretary of State Condoleezza Rice, made clear in a 2008 speech, "the central motivation was to resolve any confusion whether, as a matter of treaty law, the United States had residual legal obligations arising from its signature of the Rome Statute."

Article 98 Agreements

Because the ICC could claim jurisdiction over non-parties to the Rome Statute—an assertion unprecedented in international legal jurisdiction—the Bush Administration sought legal protections to preclude nations from surrendering, extraditing, or transferring U.S. persons to the ICC or third countries for that purpose without U.S. consent. Under an Article 98 agreement, a country agrees not to turn U.S. persons over to the ICC without U.S. consent.

Contrary to the claims of the more strident critics, who label the Article 98 agreements as "bilateral immunity agreements" or "impunity agreements," the agreements neither absolve the U.S. of its obligation to investigate and prosecute alleged crimes, constrain the other nation's ability to investigate and prosecute crimes committed by an American person within its jurisdiction, nor constrain an international tribunal established by the Security Council from investigating or prosecuting crimes committed by U.S. persons. The agreements simply prevent other countries from turning U.S. persons over to an international court that does not have jurisdiction recognized by the United States.

The limited nature of the agreements is entirely consistent with international law, which supports the principle that a state cannot be bound by a treaty to which it is not a party. The agreements are also consistent with customary international law because the issue of ICC jurisdiction is very much in dispute. Moreover, they are consistent with the Rome Statute itself, which contemplates such agreements in Article 98:

> The Court may not proceed with a request for surrender which would require the requested State to act inconsistently with its obligations under international agreements pursuant to which the consent of a sending State is required to surrender a person of that State to the Court, unless the Court can first obtain the cooperation of the sending State for the giving of consent for the surrender.

Although the U.S. is not currently seeking to negotiate additional Article 98 agreements, there are no known plans to terminate existing agreements. Reportedly, 104 countries have signed Article 98 agreements with the U.S., of which 97 agreements remain in effect.

Language to Protect U.S. Persons

In 2002, the U.S. sought a Security Council resolution to indefinitely exempt from ICC jurisdiction U.S. troops and officials participating in U.N. peacekeeping operations. The effort failed in the face of arguments that the Security Council lacked the authority to rewrite the terms of the Rome Statute, but the Security Council did adopt Resolution 1422, which deferred ICC prosecution of U.N. peacekeeping personnel for one year under Article 16 of the Rome Statute. The deferral was renewed once and expired in June 2004. The U.S. also successfully included language in Resolution 1497 on the U.N. Mission to Liberia granting exclusive jurisdiction over "current or former officials or personnel from a contributing State" to the contributing state if it is not a party to the Rome Statute.

Persistent Barriers to U.S. Ratification

ICC supporters have called for the Obama Administration to re-sign the Rome Statute, reverse protective measures secured during the Bush Administration (Article 98 agreements), and fully embrace the ICC. Indeed, the Obama Administration

may be considering some or all of those actions. However, the ICC's flaws advise caution and concern, particularly in how the ICC could affect national sovereignty and politically precarious situations around the globe.

When it decided to un-sign the Rome Statute, the Bush Administration voiced five concerns regarding the Rome Statute. These critical concerns have not been addressed.

The ICC's Unchecked Power

The U.S. system of government is based on the principle that power must be checked by other power or it will be abused and misused. With this in mind, the Founding Fathers divided the national government into three branches, giving each the means to influence and restrain excesses of the other branches. For instance, Congress confirms and can impeach federal judges and has the sole authority to authorize spending, the President nominates judges and can veto legislation, and the courts can nullify laws passed by Congress and overturn presidential actions if it judges them unconstitutional.

> The ICC lacks robust checks on its authority, despite strong efforts by U.S. delegates to insert them during the treaty negotiations. The court is an independent treaty body. In theory, the states that have ratified the Rome Statute and accepted the court's authority control the ICC. In practice, the role of the Assembly of State Parties is limited. The judges themselves settle any dispute over the court's "judicial functions." The prosecutor can initiate an investigation on his own authority, and the ICC judges determine whether the investigation may proceed. The U.N. Security Council can delay an investigation for a year—a delay that can be renewed—but it cannot stop an investigation.

The Challenges to the Security Council's Authority

The Rome Statute empowers the ICC to investigate, prosecute, and punish individuals for the as yet undefined crime of "aggression." This directly challenges the authority and prerogatives of the U.N. Security Council, which the U.N. Charter gives "primary responsibility for the maintenance of international peace and security" and which is the only U.N. institution empowered to determine when a nation has committed an act of aggression. Yet, the Rome Statute "empowers the court to decide on this matter and lets the prosecutor investigate and prosecute this undefined crime" free of any oversight from the Security Council.

A Threat to National Sovereignty

A bedrock principle of the international system is that treaties and the judgments and decisions of treaty organizations cannot be imposed on states without their consent. In certain circumstances, the ICC claims the authority to detain and try U.S. military personnel, U.S. officials, and other U.S. nationals even though the U.S. has not ratified the Rome Statute and has declared that it does not consider itself bound by its signature on the treaty. As Grossman noted, "While sovereign nations have the authority to try non-citizens who have committed crimes against their citizens or in their territory, the United States has never recognized the right of an international organization to do so absent consent or a U.N. Security Council mandate."

As such, the Rome Statute violates international law as it has been traditionally understood by empowering the ICC to prosecute and punish the nationals of countries that are not party to it. In fact, Article 34 of the Vienna Convention on the Law of Treaties unequivocally states: "A treaty does not create either obligations or rights for a third State without its consent."

> Protestations by ICC proponents that the court would seek such prosecutions only if a country is unwilling or unable to prosecute those accused of crimes within the court's jurisdiction—the principle of complementarity—are insufficient to alleviate sovereignty concerns.

For example, the Obama Administration recently declared that no employee of the Central Intelligence Agency (CIA) who engaged in the use of "enhanced interrogation techniques" on detainees would be criminally prosecuted. That decision was presumably the result of an analysis of U.S. law, legal advice provided to the CIA by Justice Department lawyers, and the particular actions of the interrogators. Yet if the U.S. were a party to the Rome Statute, the Administration's announced decision not to prosecute would fulfill a prerequisite for possible prosecution by the ICC under the principle of complementarity. That is, because the U.S. has no plans to prosecute its operatives for acts that many in the international community consider torture, the ICC prosecutor would be empowered (and possibly compelled) to pursue charges against the interrogators.

Erosion of Fundamental Elements of the U.N. Charter

The ICC's jurisdiction over war crimes, crimes against humanity, genocide, and aggression directly involves the court in fundamental issues traditionally reserved to sovereign states, such as when a state can lawfully use armed force to defend itself, its citizens, or its interests; how and to what extent armed force may be applied; and the point at which particular actions constitute serious crimes. Blurring the lines of authority and responsibility in these decisions has serious consequences. As Grossman notes, "with the ICC prosecutor and judges presuming to sit in judgment of the security decisions of States without their assent, the ICC could have a chilling effect on the willingness of States to project power in defense of their moral and security interests." The ability to project power must be protected, not only for America's own national security interests, but also for those individuals threatened by genocide and despotism who can only be protected through the use of force.

Complications to Military Cooperation Between the U.S. and Its Allies

The treaty creates an obligation to hand over U.S. nationals to the court, regardless of U.S. objections, absent a competing obligation such as that created through an Article 98 agreement. The United States has a unique role and responsibility in preserving international peace and security. At any given time, U.S. forces are located in approximately 100 nations around the world, standing ready to defend the interests of the U.S. and its allies, engaging in peacekeeping and humanitarian operations, conducting military exercises, or protecting U.S. interests through military intervention. The worldwide extension of U.S. armed forces is internationally unique. The U.S. must ensure that its soldiers and government officials are not exposed to politically motivated investigations and prosecutions.

Ongoing Causes for Concern

Supporters of U.S. ratification of the Rome Statute often dismiss these concerns as unjustified, disproved by the ICC's conduct during its first seven years in operation, or as insufficient to overcome the need for an international court to hold perpetrators of serious crimes to account. Considering the other options that exist or could be created to fill the ICC's role of holding perpetrators of war crimes, crimes against humanity, genocide, and aggression to account, the benefits from joining such a flawed institution do not justify the risks.

Furthermore, based on the ICC's record and the trend in international legal norms, they are being disingenuous in dismissing concerns about overpoliticization of the ICC, its impact on diplomatic initiatives and sovereign decisions on the use of force, its expansive claim of jurisdiction over the citizens of non-states parties, and incompatibility with U.S. legal norms and traditions. A number of specific risks are obvious.

Politicization of the Court

Unscrupulous individuals and groups and nations seeking to influence foreign policy and security decisions of other nations have and will continue to seek to misuse the ICC for politically motivated purposes. Without appropriate checks and balances to prevent its misuse, the ICC represents a dangerous temptation for those with political axes to grind. The prosecutor's *proprio motu* authority to initiate an investigation based solely on his own authority or on information provided by a government, a nongovernmental organization (NGO), or individuals is an open invitation for political manipulation.

One example is the multitude of complaints submitted to the ICC urging the court to indict Bush Administration officials for alleged crimes in Iraq and Afghanistan. The Office of the Prosecutor received more than 240 communications alleging crimes related to the situation in Iraq. Thus far, the prosecutor has demonstrated considerable restraint, declining to pursue these cases for various reasons, including that the ICC does not have "jurisdiction with respect to actions of non-State Party nationals on the territory of Iraq," which is also not a party to the Rome Statute.

All current ICC cases were referred to the ICC by the governments of the territories in which the alleged crimes occurred or by the Security Council. Comparatively speaking, these cases are low-hanging fruit—situations clearly envisioned to be within the authority of the court by all states. Even so, they have not been without controversy, as demonstrated by the AU reaction to the arrest warrant for President Bashir and attempts to have the Security Council defer the case.

However, the ICC's brief track record is no assurance that future cases will be similarly resolved, especially given the increasing appetite for lodging charges with the ICC. A far more significant test will arise if the prosecutor decides to investigate (and the court's pre-trial chamber authorizes) a case involving a non-ICC party without a Security Council referral or against the objections of the government of the involved territory.

This could arise from the prosecutor's monitoring of the situation in Palestine. Even though Israel is not a party to the Rome Statute, the ICC prosecutor is exploring a request by the Palestinian National Authority to prosecute Israeli commanders for alleged war crimes committed during the recent actions in Gaza. The request is supported by 200 complaints from individuals and NGOs alleging war crimes by the Israeli military and civilian leaders related to military actions in Gaza.

Palestinian lawyers maintain that the Palestinian National Authority can request ICC jurisdiction as the de facto sovereign even though it is not an internationally recognized state. By countenancing Palestine's claims, the ICC prosecutor has enabled pressure to be applied to Israel over alleged war crimes, while ignoring Hamas's incitement of the military action and its commission of war crimes against Israeli civilians. Furthermore, by seemingly recognizing Palestine as a sovereign entity, the prosecutor's action has arguably created a pathway for Palestinian statehood without first reaching a comprehensive peace deal with Israel. This determination is an inherently political issue beyond the ICC's authority, yet the prosecutor has yet to reject the possibility that the ICC may open a case on the situation.

Alternatively, the prosecutor could raise ire by making a legal judgment call on a crime under the court's jurisdiction that lacks a firm, universal interpretation, such as:

- "Committing outrages upon personal dignity, in particular humiliating and degrading treatment";
- "Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated"; or
- Using weapons "which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict."

In each of these cases, a reasonable conclusion could be made to determine whether a crime was committed. For instance, many human rights groups allege outrages on personal dignity and "humiliating and degrading treatment" were committed at the detention facility at Guantanamo Bay, Cuba. The U.S. disputes these claims. Excessive use of force has been alleged in Israel's attacks in Gaza, while others insist Israel demonstrated forbearance and consideration in trying to prevent civilian casualties. There is also an ongoing international effort to ban landmines and cluster munitions. If the ICC member states agree to add them to the annex of banned weapons, it could lead to a confrontation over their use by non-party states, such as the U.S., which opposes banning these weapons. These are merely some scenarios in which politicization could become an issue for the ICC.

The Undefined Crime of Aggression

It would be irresponsible for the U.S. to expose its military personnel and civilian officials to a court that has yet to define the very crimes over which it claims jurisdiction. Yet that is the situation the U.S. would face if it ratified the Rome Statute. The Statute includes the crime of aggression as one of its enumerated crimes, but the crime has yet to be defined, despite a special working group that has been debating the issue for more than five years.

For instance, some argue that any military action conducted without Security Council authorization violates international law and is, therefore, an act of aggression that could warrant an ICC indictment. The U.S. has been the aggressor in several recent military actions, including military invasions of the sovereign territories of Afghanistan and Iraq, albeit with the U.N. Security Council's blessing in the case of Afghanistan. U.S. forces bombed Serbia in 1999 and launched dozens of cruise missiles at targets in Afghanistan and the Sudan in 1998 without explicit Security Council authorization. While charges of aggression are unlikely to be brought against U.S. officials *ex post facto* for military actions in Iraq and elsewhere—certainly not for actions before July 2002 as limited by the Rome Statute—submitting to the jurisdiction of an international court that judges undefined crimes would be highly irresponsible and an open invitation to levy such charges against U.S. officials in future conflicts.

If the U.S. becomes an ICC party, every decision by the U.S. to use force, every civilian death resulting from U.S. military action and every allegedly abused detainee could conceivably give cause to America's enemies to file charges against U.S. soldiers and officials. Indeed, any U.S. "failure" to prosecute a high-ranking U.S. official in such instances would give a cause of action at the ICC. For example, the principle of complementarity will not prevent a politicized prosecutor from bringing charges against a sitting U.S. President or Secretary of Defense. That is, the U.S. Department of Justice is unlikely to file criminal charges against such officials for their decisions involving the use of military force. This decision not to prosecute would be a prerequisite for the ICC taking up the case.

At best, the U.S. would find itself defending its military and civilian officials against frivolous and

politically motivated charges submitted to the ICC prosecutor. At worst, international political pressure could compel the ICC's prosecutor to file charges against current or former U.S. officials. Until the crime of aggression is defined, U.S. membership in the ICC is premature.

What the U.S. Should Do

The serious flaws that existed when President Clinton signed the Rome Statute in December 2000 continue to exist today. The Bush Administration's policy toward the ICC was prudent and in the best interests of the U.S., its officials, and particularly its armed forces. Since the ICC came into existence, the U.S. has treaded carefully by supporting the ICC on an ad hoc basis without backing away from its long-standing objections to the court. The U.S. has simultaneously taken the necessary steps to protect U.S. persons from the court's illegitimate claims of jurisdiction.

Despite intense pressure to overturn U.S. policies toward the ICC, the Obama Administration appears to appreciate the possible ramifications of joining the court. Indeed, as a candidate, Obama expressed the need to ensure that U.S. troops have "maximum protection" from politically motivated indictments by the ICC and did not openly support ratification of the Rome Statute. However, the Obama Administration has expressed less caution than either the Bush or Clinton Administrations did about the ICC. Specifically, during her confirmation hearing as Secretary of State Hillary Clinton stated:

> The President-Elect believes as I do that we should support the ICC's investigations. . . .
>
> But at the same time, we must also keep in mind that the U.S. has more troops deployed overseas than any nation. As Commander-in-Chief, the President-Elect will want to make sure they continue to have the maximum protection. . . . Whether we work toward joining or not, we will end hostility towards the ICC, and look for opportunities to encourage effective ICC action in ways that promote U.S. interests by bringing war criminals to justice.

News reports indicate that the Obama Administration is close to announcing a change in U.S. policy toward the ICC, including affirming the 2000 signature on the Rome Statute and increasing U.S. cooperation with the court. On her recent trip to Africa, Secretary of State Clinton stated that it was "a great regret but it is a fact that we are not yet a signatory [to the Rome Statute]. But we have supported the court and continue to do so."

These steps are premature if the Administration seriously wishes to provide "maximum protection" for U.S. troops. Instead, to protect U.S. military personnel and other U.S. persons and to encourage other member states to support reforms to the Rome Statute that would address U.S. concerns, the Obama Administration should:

- *Not re-sign the Rome Statute.* The Obama Administration is under pressure to "re-sign" the Rome Statute, reversing the Bush Administration's decision. In critical ways, this would be tantamount to signing a blank check. The Rome Statute is up for review by the Assembly of States Parties in 2010, and key crimes within the court's jurisdiction have yet to be defined and long-standing U.S. objections to the treaty have yet to be addressed. The Obama Administration should use the possibility of U.S. membership as an incentive to encourage the state parties to remedy the key flaws in the Rome Statute.
- *Maintain existing Article 98 agreements.* Until the Rome Statute is reformed to address all of the U.S. concerns, the Obama Administration should confirm and endorse all existing Article 98 agreements. The U.S. is militarily engaged in Iraq and Afghanistan, has troops stationed and in transit around the globe, and in all likelihood will be involved in anti-terror activities around the world for many years. Now is not the time to terminate the legal protections enjoyed by U.S. military personnel and officials deployed in foreign nations. Even if the U.S. joins the ICC at some future date, the U.S. should not terminate the Article 98 agreements because they are consistent with the Rome Statute and would serve as a useful protection if the court overreaches.
- *Establish clear objectives for changes to the Rome Statute for the 2010 review conference that would help to reduce current and potential problems posed by the ICC.* In 2010, the Assembly of States Parties is scheduled to hold the first review conference to consider amendments to the Rome Statute. A key issue on the agenda is agreeing to a definition of the crime of aggression, which is technically under the ICC's jurisdiction, but remains latent due to the states parties' inability to agree to a definition. Rather than accede to an anodyne definition, the U.S. should either seek an explicit, narrow definition to prevent politicization of this crime or, even better, seek to excise the crime from the Rome Statute entirely, on the grounds that it infringes on the Security Council's authority. Moreover, the review conference should reverse the Rome Statute's violation of customary

international law by explicitly limiting the ICC's jurisdiction only to nationals of those states that have ratified or acceded to the Rome Statute and to nationals of non-party states when the U.N. Security Council has explicitly referred a situation to the ICC.

- *Approach Security Council recommendations to the ICC on their merits and oppose those deemed detrimental to U.S. interests.* The U.S. abstentions on Security Council resolutions on Darfur indicate only that it is not U.S. policy to block all mentions of the ICC. However, accepting the reality of the ICC does not mean that the U.S. should acquiesce on substantive issues when they may directly or indirectly affect U.S. interests, U.S. troops, U.S. officials, or other U.S. nationals. Many concerns about the Rome Statute have not yet been adequately addressed. The U.S. should abstain if the resolution addresses issues critical to U.S. interests and would not directly or indirectly undermine the U.S. policy of opposing ICC claims of jurisdiction over U.S. military personnel and its nationals. Moreover, the U.S. should insist that all resolutions include language protecting military and officials from non-ICC states participating in U.N. peacekeeping operations.

Conclusion

While the International Criminal Court represents an admirable desire to hold war criminals accountable for their terrible crimes, the court is flawed notionally and operationally. The ICC has not overcome many of the problems plaguing the ad hoc tribunals established for Yugoslavia and Rwanda. It remains slow and inefficient. Worse, unlike ad hoc tribunals, it includes a drive to justify its budget and existence in perpetuity rather than simply completing a finite mission.

Its broad autonomy and jurisdiction invite politically motivated indictments. Its inflexibility can impede political resolution of problems, and its insulation from political considerations can complicate diplomatic efforts. Efforts to use the court to apply pressure to inherently political issues and supersede the foreign policy prerogatives of sovereign nations—such as the prosecutor's decision to consider Israel's actions in Gaza—undermine the court's credibility and threaten its future as a useful tool for holding accountable the perpetrators of genocide, war crimes, and crimes against humanity.

President Clinton considered the ICC's flaws serious enough to recommend against U.S. ratification of the Rome Statute unless they were resolved, and President Bush concurred. These issues remain unresolved and continue to pose serious challenges to U.S. sovereignty and its national interests. Unless the serious flaws are addressed fully, President Obama should similarly hold the ICC at arm's length. To protect its own interests and to advance the notion of a properly instituted international criminal court, the U.S. should continue to insist that it is not bound by the Rome Statute and does not recognize the ICC's authority over U.S. persons and should exercise great care when deciding to support the court's actions.

Brett Schaefer is the Jay Kingham fellow in international regulatory affairs at the Heritage Foundation. He has an MA degree in international development economics from the School of International Service at American University. He has published an edited book, *ConUNdrum: The Limits of the United Nations and the Search for Alternatives* (Rowman & Littlefield, 2009).

Steven Groves is Bernard and Barbara Lomas fellow at the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, the Heritage Foundation. He has served as senior counsel to the U.S. Senate Permanent Subcommittee on Investigations and as an assistant attorney general for the state of Florida. Groves received his law degree from Ohio Northern University.



Michael P. Scharf

NO

Is a U.N. International Criminal Court in the U.S. National Interest?

Going into the Rome Diplomatic Conference [on establishing the International Criminal Court], both the U.S. Congress and the Administration in principle recognized the need for a permanent international criminal court. Any discussion of what happened in Rome must begin by recalling the case for such an institution.

In his book, *Death by Government*, Professor Rudi Rummel, who was nominated for the Nobel Peace Prize, documented that 170 million civilians have been victims of war crimes, crimes against humanity, and genocide during the 20th Century. We have lived in a golden age of impunity, where a person stands a much better chance of being tried for taking a single life than for killing ten thousand or a million. Adolf Hitler demonstrated the price we pay for failing to bring such persons to justice. In a speech to his commanding generals on the eve of his campaign into Poland in 1939, Hitler dismissed concerns about accountability for war crimes and acts of genocide by stating, "Who after all is today speaking about the destruction of the Armenians." He was referring to the fact that the Turkish leaders were granted amnesty in the Treaty of Lausanne for the genocidal murder of one million Armenians during the First World War. After the Second World War, the international community established the Nuremberg Tribunal to prosecute the major Nazi war criminals and said "Never Again!"—meaning that it would never again sit idly by while crimes against humanity were committed. Shortly thereafter, the U.N. began work on the project to establish a permanent Nuremberg Tribunal.

But because of the cold war, the pledge of "never again" quickly became the reality of again "and again" as the world community failed to take action to bring those responsible to justice when 2 million people were butchered in Cambodia's killing fields, 30,000 disappeared in Argentina's Dirty War, 200,000 were massacred in East Timor, 750,000 were exterminated in Uganda, 100,000 Kurds were gassed in Iraq, and 75,000 peasants were slaughtered by death squads in El Salvador. Just as Adolf Hitler pointed to the world's failure to prosecute the Turkish leaders, [Bosnian Serb leaders] Radovan Karadzic and Ratko Mladic were encouraged by the world's failure to bring [Cambodian leader] Pol Pot, [Ugandan President] Idi Amin, and [Iraqi President] Saddam Hussein to justice for their international crimes.

Then, in the summer of 1992, genocide returned to Europe just when the U.N. Security Council was freed of its cold war paralysis. Against great odds, a modern day Nuremberg Tribunal was established in The Hague to prosecute those responsible for atrocities in the Former Yugoslavia. Then a year later, genocide reared its ugly head again, this time in the small African country of Rwanda where members of the ruling Hutu tribe massacred 800,000 members of the Tutsi tribe. In the aftermath of the bloodshed, Rwanda's Prime Minister-designate (a Tutsi) pressed the Security Council: "Is it because we're Africans that a similar court has not been set up for the Rwanda genocide." The Council responded by establishing a second international war crimes Tribunal in Arusha, Tanzania.

With the creation of the Yugoslavia and Rwanda Tribunals, there was hope that ad hoc tribunals would be set up for crimes against humanity elsewhere in the world. Genocidal leaders and their followers would have reason to think twice before committing atrocities. But then something known in government circles as "Tribunal fatigue" set in. The process of reaching agreement on the tribunal's statute, electing judges, selecting a prosecutor and staff, negotiating headquarters agreements and judicial assistance pacts, and appropriating funds turned out to be too time consuming and politically exhausting for the members of the Security Council. A permanent international criminal court was universally hailed as the solution to the problems that afflict the ad hoc approach. As President [Bill] Clinton said on the eve of the Rome Conference:

> "We have an obligation to carry forward the lessons of Nuremberg. . . . Those accused of

Scharf, Michael P. "Is a U.N. International Criminal Court In The U.S. National Interest?" from Senate Hearing before the Subcommittee on International Operations of the Committee on Foreign Relations, United States Senate, July 23, 1998.

> war crimes, crimes against humanity and genocide must be brought to justice . . . There must be peace for justice to prevail, but there must be justice when peace prevails."

So what went wrong in Rome? Why at the last minute did the United States Delegation feel compelled to join a handful of rogue States and notorious human rights violators such as Iran, Libya, China, and Iraq in voting against the statute for a Permanent International Criminal Court, while all of our allies (except Israel) voted in favor of the Court?

Rome represented a tension between the United States, which sought a Security Council-controlled Court, and most of the other countries of the world which felt no country's citizens who are accused of war crimes or genocide should be exempt from the jurisdiction of a permanent international criminal court. The justification for the American position was that, as the world's greatest military and economic power, more than any other country the United States is expected to intervene to halt humanitarian catastrophes around the world. The United States' unique position renders U.S. personnel uniquely vulnerable to the potential jurisdiction of an international criminal court. In sum, the Administration feared that an independent ICC Prosecutor would turn out to be (in the words of one U.S. official) an "international Ken Starr."

The rest of the world was in fact somewhat sympathetic to the United States' concerns. What emerged from Rome was a Court with a two-track system of jurisdiction. Track One would constitute situations referred to the Court by the Security Council. This track would create binding obligations on all states to comply with orders for evidence or the surrender of indicted persons under Chapter VII of the U.N. Charter. This track would be enforced by Security Council imposed embargoes, the freezing of assets of leaders and their supporters, and/or by authorizing the use of force. It is this track that the United States favored, and would be likely to utilize in the event of a future Bosnia or Rwanda. The second track would constitute situations referred to the Court by individual countries or the ICC Prosecutor. This track would have no built in process for enforcement, but rather would rely on the good-faith cooperation of the Parties to the Court's statute. Everyone recognized that the real power was in the first track. But the United States still demanded protection from the second track of the Court's jurisdiction. Thus, the following protective mechanisms were incorporated into the Court's Statute at the urging of the United States:

First of all, the Court's jurisdiction under the second track would be based on a concept known as "complementarity," which was defined as meaning the Court would be a last resort which comes into play only when domestic authorities are unable or unwilling to prosecute. Under this principle, for example, the Court would not have had jurisdiction over the infamous My Lai [South Vietnam] massacre [in 1968] since the United States convicted Lt. Calley [U.S. Army] and prosecuted his superior officer, Captain [Ernest] Medina.

Second, the ICC Statute specifies that the Court would have jurisdiction only over "serious" war crimes that represent a "policy." Thus, random acts of U.S. personnel, such as the downing [in 1988] of the Iran Airbus [killing 296 civilian crewmembers and passengers] by the USS *Vincennes*, would not be subject to the Court's jurisdiction.

Third, the Statute guards against spurious complaints by the ICC prosecutor by requiring the approval of a three-judge pre-trial chamber before the prosecution can launch an investigation. And the decision of the chamber is subject to interlocutory appeal to the Appeals Chamber. Fourth, the Statute allows the Security Council to affirmatively vote to postpone an investigation or case for up to twelve months, on a renewable basis. This gives the United States and the other members of the Security Council a collective (though not individual) veto over the Court where the Council is seized of a matter.

Finally, the Diplomatic Conference adopted the U.S. proposals for the selection of judges to ensure against a politicized Court. While researching my book, *Balkan Justice*, I observed the first trial before the Yugoslavia Tribunal in The Hague. I can tell you that those judges were truly independent. They did not in any way reflect the predispositions of their home countries. The selection process produced a bench made up of the most distinguished international jurists in the world. And the Yugoslavia Tribunal's jurisprudence to date reflects a respect for the rights of the defendant every bit as strong as that found in U.S. courts. The experience with the Yugoslavia Tribunal can give us comfort that a permanent international criminal tribunal would be no kangaroo court.

The United States Delegation played hardball in Rome and got just about everything it wanted. These protections proved sufficient for other major powers including the United Kingdom, France and Russia. But without what would amount to an ironclad exemption for U.S. servicemen, the United States felt compelled to force a vote, and ultimately to vote against the Court. The final vote on the Statute was 120 in favor, 7 against, with 21 abstentions. I understand that the delegates loudly cheered for fifteen minutes when the tally was announced. I'm told that a few of the members of the U.S. Delegation had tears in their eyes.

The ICC Statute will come into force when 60 countries ratify it, which given the overwhelming vote in favor, should be within a relatively short period of time. Where does that leave us? Within five years the world will have a permanent international criminal court even without U.S. support. As a non-party, the U.S. will not be bound to cooperate with the Court. But this does not guarantee complete immunity from the Court. It is important to understand that U.S. citizens, soldiers, and officials could still be indicted by the Court and even arrested and surrendered to the Court while they are visiting a foreign country which happens to be a party to the Court's Statute.

Moreover, by failing to sign the Statute, the U.S. will be prevented from participating in the preparatory committee which will draft the Court's Rules of Procedure and further define the elements of the crimes within the Court's jurisdiction. Also, by failing to sign the Statute, the U.S. will be prevented from nominating a candidate for the Court's bench, participating in the selection of the Court's Prosecutor and judges, or voting on its funding. The most important question, which cannot be answered at this time, is whether the adverse diplomatic fallout from the United States' action in Rome will ultimately prevent it from being able to utilize the first track of the Court's jurisdiction: that is, Security Council referral of cases.

The worst thing about the U.S. decision to break consensus and vote against the permanent international criminal court is that the Rome Conference will end up sending a mixed message to future war criminals and genocidal leaders. The U.S. action may be viewed as evidence that the world's greatest power does not support the international effort to bring such persons to justice. A future Adolf Hitler may point to the U.S. action in telling his followers that they need not fear being held accountable.

In the final analysis, the U.S. may have lost far more than it gained by voting against the ICC Statute. After having won so many battles in Rome, it is not clear why the U.S. Delegation did not declare victory and vote in favor of the Court (though ratification may have had to await a more favorable political climate). There's still time for a change of heart. After all, it took the United States over thirty years to ratify the 1948 Genocide Convention. But we finally did the right thing.

Michael P. Scharf is a professor of law at and director of the Center for International Law and Policy, New England School of Law. During the 1990s he served in the Office of the Legal Adviser of the U.S. Department of State, where he held the positions of attorney-adviser for law enforcement and intelligence, attorney-adviser for United Nations Affairs, and delegate to the United Nations Human Rights Commission.



EXPLORING THE ISSUE



Is U.S. Refusal to Join the International Criminal Court Justifiable?

Critical Thinking and Reflection

1. Does the ICC possess adequate safeguards against politicized prosecutions?
2. Do you think prosecutions through the ICC should require a UN Security Council referral?
3. Has the U.S. refusal to join the ICC created an unsustainable two-tier justice system?
4. Are Realists of world politics correct when they argue that powerful states will never subject themselves to prosecutions through international institutions?
5. Do you think the ICC helps deter future atrocities through its attempts to punish violators of human rights?

Is There Common Ground?

Though the selections in this issue date from 2009 and 1998, respectively, it is apparent that the concerns they address are just as relevant today as they were when they were written. There is common ground between them in that they both believe the ICC is a noble attempt to establish individual accountability for the worst human rights abuses. Even without U.S. membership the ICC has made significant strides in this regard. Notable recent milestones include the prosecution of a jihadi in 2015 for "intentionally directing attacks against religious and historic buildings" in Mali—the first time such destruction has been tried as a war crime. In March 2016, a former warlord from the Democratic Republic of Congo was also convicted for the use of rape as a weapon of war, a crime he committed over 13 years before being convicted.

Supporters argue that ICC prosecutions like these are helping establish jurisprudence, deter future atrocities, and maintain peace and security through the rule of law. If justice is achieved through the courts it is less likely that the victims will seek retribution through violence. For these reasons, the Obama administration built a more constructive relationship with the ICC. In 2011, the United States even voted in favor of an ICC investigation in Libya. However, despite this rapprochement, the United States did not seek to join, and the Court itself has still faced accusations of bias against Africans. The concerns voiced by Schaefer and Groves in this issue are obviously still evident and with the Trump administration's skepticism concerning international institutions, a return to the frostier relationship of the Bush years seems likely.

Additional Resources

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This journal is published quarterly and is an excellent source of information on the ICC.

http://jicj.oxfordjournals.org/

IntlCriminalCourt—YouTube

www.youtube.com/user/IntlCriminalCourt



ISSUE

Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*



Should the United States Ratify the Convention to Eliminate All Forms of Discrimination Against Women?

YES: Melanne Verveer, from "Ratify the CEDAW," *U.S. Senate* (2010)

NO: Steven Groves, from "Reject CEDAW," *U.S. Senate* (2010)

Learning Outcomes

After reading this issue, you will be able to:

- Recall the background of Convention to Eliminate All Forms of Discrimination Against Women (CEDAW).
- Relate how CEDAW has been dealt with by most countries and how that differs from the U.S. reception.
- Recount the reasons why some Americans oppose Senate ratification of CEDAW.
- Enumerate the counterarguments for ratifying CEDAW.

ISSUE SUMMARY

YES: Melanne Verveer, ambassador-at-large, Office of Global Women's Issues, U.S. Department of State, tells a congressional committee that the U.S. Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) because doing so would send a powerful message about the U.S. commitment to equality for women across the globe.

NO: Steven Groves, the Bernard and Barbara Lomas Fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies at the Heritage Foundation, headquartered in Washington, DC, contends that ratifying CEDAW would neither advance U.S. international interests nor enhance the rights of women in the United States.

Females constitute about half the world population, but they are a distinct economic–political–social minority because of the wide gap in societal power and resources between women and men. Women constitute 70 percent of the world's poor and two-thirds of its literates. They occupy only 14 percent of the managerial jobs, are less than 40 percent of the world's professional and technical workers, and garner only 35 percent of the earned income in the world. Women are also disadvantaged politically. In late 2012, only 14 women were serving as the top political leader in their countries; women make up just 8 percent of all national cabinet officers; and only one of every five national legislators is a woman. On average, life for women is not only harder and more poorly compensated than it is for men, but also more dangerous. "The most painful devaluation of women," the United Nations reports, "is the physical and psychological violence that stalks them from cradle to grave." Signs of violence against women include the fact that about 80 percent of

the world's refugees are women and their children. Other assaults on women arguably constitute a form of genocide. According to the UN Children's Fund, "In many countries, boys get better care and better food than girls. As a result, an estimated one million girls die each year because they were born female." None of these economic, social, and political inequities are new. Indeed, the global pattern of discrimination against women is ancient. What is new is the global effort to recognize the abuses that occur and to ameliorate and someday end them. To help accomplish that goal, the U.N. General Assembly in 1979 voted by 130 to 0 to put the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) before the world's countries for adoption. Supporters hailed the treaty as a path-breaking step on behalf of advancing the status of women. Many countries agreed, and by September 1981 enough countries had signed and ratified CEDAW to put it into effect. This set a record for the speed with which any human rights convention had gone into force.

CEDAW is a women's international bill of rights. Most of these rights are enumerated in various other treaties as applicable to all humans, but women's rights had not been specifically and fully addressed in any other treaty before CEDAW. Countries that legally adhere to the convention agree to undertake measures to end all the various forms of discrimination against women. Doing so entails accepting legal gender equality and ensuring the practice of gender equality by abolishing all discriminatory laws, enacting laws that prohibit discrimination against women, and establishing agencies to protect women's rights.

President Jimmy Carter signed CEDAW in 1980 and submitted it to the Senate for ratification. However, he was soon thereafter defeated for reelection, and the treaty languished in legislative limbo ever since. President Bill Clinton did make an effort to move CEDAW forward, but he was unsuccessful. Hope among those who support ratifying CEDAW rose anew when President Barack Obama was elected president and he appointed Hillary Clinton as secretary of state. Both supported CEDAW. Additionally, the Democrats controlled Congress. This led to hearings before a Senate committee in 2010. The testimony that constitutes the YES and NO selections comes from those hearings. In the YES selection, Melanne Verveer urges the adoption of CEDAW and tells the Senate that it is long overdue for the United States to stand with the women of the world in their effort to obtain the basic rights that women in this country enjoy. Steven Groves disagrees, telling the committee that U.S. ratification of CEDAW would have little or no impact on women's rights globally and that it would unnecessarily and unwisely subject the United States to interference by the United Nations and international courts.



YES

Melanne Verveer

Ratify the CEDAW

Thank you for this opportunity to discuss with you the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, commonly known as CEDAW, or the Women's Treaty. . . . Today, I would like to talk about what the Women's Treaty represents and why U.S. ratification is critical to our efforts to promote and defend the rights of women across the globe.

This hearing could not come at a more critical time for the world's women. Gender inequality and oppression of women are rampant across the globe. The scale and savagery of human rights violations committed against women and girls is nothing short of a humanitarian tragedy. Today, violence against women is a global pandemic. In some parts of the world, such as the Democratic Republic of Congo, Burma, and Sudan, women are attacked as part of a deliberate and coordinated strategy of armed conflict where rape is used as a tool of war. In others, like Afghanistan, girls are attacked with acid and disfigured simply because they dare attend school. Girl infanticide and neglect has contributed to the absence from school of an estimated 100 million girls worldwide. In places where girls are not as valued and there is a strong preference for sons, practices ranging from female genital mutilation, to child marriage, to so-called "honor killings," to the trafficking of women and girls into modern-day slavery highlight the low status of females around the globe.

In far too many places, women's participation in parliaments, village councils and peace negotiations is circumscribed or prevented altogether. Policies instructing that "women need not apply" continue to limit employment opportunities and pay. The majority of the world's illiterate are women and, according to the World Bank, girls constitute 55 percent of all out-of-school children. This has devastating consequences on the health and well-being of families and communities. And today, the HIV-AIDS pandemic has a woman's face, with the number of infections rising at alarming rates among adolescent girls in many places who face the threat of violence, including sexual violence, in their lives.

Women's equality has rightly been called the moral imperative of the 21st century. Where women cannot participate fully and equally in their societies, democracy is a contradiction in terms, economic prosperity is hampered, and stability is at risk. Standing up against the appalling violations of women's human rights around the globe, and standing with the women of the world, is what ratifying the Women's Treaty is about.

Why the United States Should Ratify the Women's Treaty

In my time at the State Department, I have visited scores of countries and met with women from all walks of life, from human rights activists in Russia, to microcredit recipients and small-business entrepreneurs in rural South Asia, to survivors of rape and conflict in the Democratic Republic of the Congo. In my travels, the number-one question I am asked time and time again is, "Why hasn't the United States ratified CEDAW?"

It is understandable that I continue to receive this question everywhere I go. The United States has long stood for the principles of equal justice, the rule of law, respect for women, and the defense of human dignity. We know that women around the world look to the United States as a moral leader on human rights. And yet when it comes to the Women's Treaty, which reflects the fundamental principle that women's rights are human rights, we stand with only a handful of countries that have not ratified, including Somalia, Iran, and Sudan—countries with some of the worst human rights records in the world. We stand alone as the only industrialized democracy in the world that has not ratified the Women's Treaty. And we stand on the sidelines, unable to use the Women's Treaty to join with champions of human rights who seek to use it as a means to protect and defend women's basic human rights.

Verveer, Melanne. "Ratify the CEDAW," U.S. Senate, November 18, 2010.

U.S. ratification of the Women's Treaty matters because the moral leadership of our country on human rights matters. Some governments use the fact that the U.S. has not ratified the treaty as a pretext for not living up to their own obligations under it. Our failure to ratify also deprives us of a powerful tool to combat discrimination against women around the world, because as a non-party, it makes it more difficult for us to press other parties to live up to their commitments under the treaty.

The United States is firmly committed to the principles of women's equality as enshrined in the U.S. Constitution. Our ratification will send a powerful and unequivocal message about our commitment to equality for women across the globe. It will lend much needed validation and support to advocates fighting the brutal oppression of women and girls everywhere, who seek to replicate in their own countries the strong protections against discrimination that we have in the United States. And it will signal that the United States stands with the women of the world. Importantly, ratification will also advance U.S. foreign policy and national security interests. As the Obama Administration has made clear, women's equality is critical to our national security. President Obama's National Security Strategy recognizes that "countries are more peaceful and prosperous when women are accorded full and equal rights and opportunity. When those rights and opportunities are denied, countries lag behind." And as Secretary [Hillary] Clinton has stated, "the subjugation of women is a threat to the national security of the United States. It is also a threat to the common security of our world, because the suffering and denial of the rights of women and the instability of nations go hand in hand." Ratification of this treaty, which enshrines the rights of women in international law, is not only in the interest of oppressed women around the world—it is in our interest as well.

In fact, my office has been working closely with the Office of the Under Secretary of Defense for Policy at the Department of Defense to highlight issues related to women, peace and security. We as a U.S. government recognize the interconnection of women's progress and the advancement of U.S. objectives across the world. And Admiral Mullen, Chairman of the Joint Chiefs of Staff, recently stated, "Secretary of State Hillary Clinton wisely summed it up last week when she said, 'If we want to make progress towards settling the world's most intractable conflicts, let's enlist women.' I couldn't agree more—and I would only add: The time to act is now so we don't have to ask, yet again, why did this take so long? But as we think about how far we've come, we must also consider how far we have still to go."

How the Women's Treaty Helps Eliminate Discrimination Against Women

I would like to briefly describe what the Women's Treaty is, the principles it enshrines, and how it can be used to challenge discrimination against women around the world. The Women's Treaty was adopted by the United Nations nearly 31 years ago and is the first treaty to comprehensively address women's rights and fundamental freedoms. The treaty builds on several previous international human rights instruments, including the UN Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights (ICCPR). It obliges parties to end discrimination against women and addresses areas that are crucial to women's equality, from citizenship rights and political participation to inheritance and property rights to freedom from domestic violence and sex trafficking. It is consistent with the approach that we have already taken on these issues domestically. To date, 186 out of 192 UN member states are party to the treaty.

Around the world, women are using the Women's Treaty as an instrument for progress and empowerment. There are countless stories of women who have used their countries' commitments to the treaty to bring constitutions, laws, and policies in line with the principle of nondiscrimination against women. Over the course of my travels, I have seen firsthand its incredible influence in helping women change their societies. Today, I would like to highlight just a few examples that illuminate the treaty's ability to help women push for equal treatment in their communities.

Morocco: The Women's Treaty has been used to fight discrimination against women in family law. For example, in Morocco, for nearly a century, family law was largely determined by differing interpretations of Islamic law, which resulted in oppression and unequal treatment for wives. Brides were not asked to give their consent to marriage during the wedding ceremony. Polygamy was widespread, and husbands had the power to "repudiate" a marriage without court proceedings or their wives' consent. Women in Moroccan civil society worked tirelessly and even faced imprisonment in their effort to end discrimination against women in family law, but they did not back down. In 1993, Morocco ratified the Women's Treaty with a set of reservations, and in 2004, a new Morocco Family Code was enacted that protected women's rights in matters of marriage and family relations. Today, women no longer need a matrimonial guardian to determine

whom they will marry. In addition, a woman can now initiate divorce proceedings, which are now determined in a court of law, and there are a series of restrictions in place making polygamy far more difficult to practice.

Afghanistan: The Women's Treaty has also been used to combat discrimination against women even in countries that fall far short of their commitment to women's equality under the treaty, such as Afghanistan. As we know, under the brutal Taliban regime, Afghan women and girls suffered untold deprivations of their basic human rights, including the right to attend school, thereby penalizing an entire generation. The fact that Afghanistan is party to agreements like the ICCPR and the Women's Treaty has helped to provide legitimacy for women's rights advocates seeking to improve conditions for women and girls. Indeed, Afghan activists recently pushed for a new law to eliminate violence against women. And several Afghan women's organizations have banded together to release their own "shadow report" detailing the government's actions to prevent and respond to violence against women. Thanks to the efforts of women's advocates, the Afghan government—for the first time since ratifying the Women's Treaty—is working to prepare a public report on its implementation of the treaty.

Mexico: The Women's Treaty has also been used to combat violence against women and sexual assault. In Mexico, for example, the treaty was deployed as a tool against violence in some of the country's most dangerous areas. An estimated 450 girls and women have been killed in Ciudad Juárez and Chihuahua City since 1993. According to Mexican authorities, most of these women were sexually assaulted before their murders. Local human rights groups report that few cases have been investigated and in even fewer have perpetrators been brought to justice. But in 2007, human rights groups won a major victory with the enactment of a national law inspired, in large part, by the Women's Treaty. The new Mexican law requires federal, state and local authorities to coordinate activities to prevent and respond to violence against women, and authorizes the Interior Minister to declare a state of alert if he or she determines there is an outbreak of widespread gender-based violence.

Philippines: The Women's Treaty has provided activists around the world with a useful framework for women's human rights that has advanced and improved laws prohibiting discrimination against women. For instance, in the Philippines, the treaty was heavily relied upon as a blueprint for framing the first Magna Carta of Women, a comprehensive equal-rights statute that provides political, civil, and economic rights for all Filipino women, with special protections for those who are members of marginalized groups. Women's groups, working in coordination with international organizations, used the Women's Treaty to help develop a definition of gender discrimination and outline the responsibilities of the government to protect its citizens. This historic and far-reaching law was signed into law by President Gloria Arroyo in 2009. Among its several provisions, the Magna Carta affirms Filipino women's rights to education, political participation and representation, and equal treatment before the law.

Uganda: The Women's Treaty has also been used to achieve equal treatment for women in the critical area of land rights. In some parts of the world, women produce 70 percent of the food and yet earn only 10 percent of the income and own only 1 percent of the land—a situation that is not only unfair, but also relegates women to lives of poverty. In Uganda, a robust women's movement has made efforts to tackle this problem by relying on both the Women's Treaty and national legislation to pursue land ownership rights and challenge customary land tenure practices. Empowered by the Women's Treaty and the enactment of the country's Land Act in 1998, women's groups and activists began a tireless campaign to ensure that women were protected in the tenure, ownership and administration of land. In their fight for equal treatment, these activists continue to rely on the Women's Treaty.

Conclusion

Fifteen years ago, as First Lady of the United States, Hillary Clinton addressed the UN Fourth World Conference on Women in Beijing and proclaimed that women's rights are human rights. Today, the litany of abuses against women that she described in her address—from violence against women to trafficking to female genital mutilation to girl infanticide—persists. We cannot stand by while girls and women continue to be fed less, fed last, overworked, underpaid, subjected to violence both in and out of their homes—in short, while discrimination against women and girls remains commonplace around the globe. For as long as the oppression of women continues, the peaceful, prosperous world we all seek will not be realized. It has been over 30 years since the Women's Treaty was first adopted by the United Nations. Since that time, as I have described, the treaty has been used to advocate for and realize equal treatment for women and girls around the

world. But much work remains to be done. And it is long overdue for the United States to stand with the women of the world in their effort to obtain the basic rights that women in this country enjoy.

As Secretary Clinton has said, "the United States must remain an unambiguous and unequivocal voice in support of women's rights in every country, every region, on every continent." By ratifying the Women's Treaty, we will speak with this clarity of voice and purpose. We will strengthen the efforts of those who toil for women's rights, for equal treatment, and for human dignity. And we will make clear our belief that human rights are women's rights and women's rights are human rights, once and for all.

Melanne Verveer is ambassador-at-large, Office of Global Women's Issues, U.S. Department of State. She earlier served as chief of staff for first lady Hillary Rodham Clinton and was chairman of the board of the Vital Voices Global Partnership, an international private organization supporting global women's leadership. She has an MA from Georgetown University.



Steven Groves

NO

Reject CEDAW

Thank you for inviting me to testify before you today regarding the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Ratification of CEDAW would neither advance U.S. national interests within the international community nor enhance the rights of women in the United States. Domestically, CEDAW membership would not improve our existing comprehensive statutory framework or strengthen our enforcement system for the protection of women's rights.

Within the international sphere, the United States need not become party to the Convention to demonstrate to the rest of the world its commitment to women's rights at home or abroad. Becoming a member of CEDAW would produce, at best, an intangible and dubious public diplomacy benefit.

Moreover, it does not serve the interests of the United States to periodically submit its record on women's rights to scrutiny by a committee of gender experts that has established a record of promoting policies that do not comport with existing American norms and that encourages national governments to engage in social engineering on a massive scale.

The United States should become party to a treaty only if membership would advance U.S. national interests. For a human rights treaty such as CEDAW, national interests may be characterized in both domestic and international terms. Only if U.S. membership in CEDAW would advance the cause of women's rights domestically and further U.S. national interests in the world should the United States consider ratification of the treaty.

Domestically, ratification of CEDAW is not needed to end gender discrimination or advance women's rights. The United States already has effective avenues of enforcement in place to combat discrimination based on sex. Specifically, in addition to the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, the United States has in place a wide range of state and federal laws to protect and advance women's rights concerning their employment, compensation, housing, education, and other areas. Federal laws include, but are not limited to:

- Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the basis of, *inter alia*, sex and has been interpreted to prohibit sexual harassment or the creation of a hostile working environment;
- The Pregnancy Discrimination Act, enacted in 1978, which prohibits discrimination on the basis of pregnancy and childbirth;
- The Equal Pay Act of 1963, which prohibits discrimination on the basis of sex in regard to the compensation paid to men and women for substantially equal work performed in the same establishment;
- The Fair Housing Act of 1968, which prohibits discrimination in the sale or rental of housing on the basis of, *inter alia*, sex;
- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in federally funded education programs or activities;
- The Equal Credit Opportunity Act, enacted in 1974, which prohibits discrimination against credit applicants on the basis of, *inter alia*, sex;
- The Violence Against Women Act of 1994, which was intended to improve criminal justice and community responses to acts of domestic violence, dating violence, sexual assault, and stalking; and
- The Lilly Ledbetter Fair Pay Act of 2009, which revised the statute of limitations requirements in equal-pay lawsuits to assist women in recovering wages lost due to discrimination.

Taking this extensive legal framework into consideration, it is difficult to imagine how membership in CEDAW will further advance the protections provided to women in the United States. In fact, the protections provided by the U.S. Constitution and existing U.S. law exceed the

Groves, Steven. "Reject CEDAW," U.S. Senate, November 18, 2010.

provisions in the treaty. This legal framework serves as a foundation that can be modified or expanded as necessary through the democratic process.

Some of this federal legislation remains controversial and will continue to be debated in Congress and litigated in U.S. courts. Differences of opinion regarding these laws and the extent of constitutional protections based on gender are likely to persist for years to come. The resolution of these issues should be sought through domestic legislative and judicial avenues rather than through the judgment of gender experts sitting on the CEDAW Committee who may possess inadequate specific knowledge or understanding of U.S. laws and practices. Robust debate regarding these issues continues in the United States despite the fact that it is not a party to CEDAW. For instance, the existence of pending federal legislation on the "pay equity" issue—such as the Paycheck Fairness Act—indicates an ongoing effort in Congress to resolve gender and compensation issues through the traditional democratic process.

Unlike the expansive provisions of CEDAW and the overly broad recommendations of the CEDAW Committee, these federal laws were crafted to address specific issues of gender discrimination in the United States, not to address the general policy opinions of the international community.

Measuring whether U.S. membership in CEDAW would actually improve the image of the United States abroad may be impossible.

Those who say that ratification would allow the United States to claim the moral high ground within the international community—at least in regard to women's rights—imply that the United States is deficient in protecting those rights, when in truth the United States has been a leader and standard bearer for empowering women. It already holds the moral high ground. Ratifying a treaty merely to score points overseas is not a sound justification for a decision that could have unforeseen or negative domestic ramifications.

The United States amply demonstrated to the international community that it is committed to the protection of women's rights when, in 1992, it ratified the International Covenant on Civil and Political Rights (ICCPR). By ratifying the ICCPR, the United States made an international political commitment to guarantee the individual liberties, political rights, and physical integrity of its citizens "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Indeed, Article 3 of the ICCPR requires that the United States "undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant."

Moreover, the United States has demonstrated in the past and continues to demonstrate its commitment to women's rights not just in the U.S., but around the world as well, regardless of the fact that it is not a member of CEDAW. The presence at this very hearing of Ambassador Melanne Verveer, the first Ambassador-at-Large for Global Women's Issues, is only the latest indication that the U.S. is committed to the political, economic, and social empowerment of women around the globe. Secretary Clinton's establishment of the International Fund for Women further indicates that the U.S. government is continually formulating programs for the advancement of women's causes outside of the United States.

While everyone may not agree with the policy aims of these programs, these acts by the United States are far more relevant to women in need around the world than U.S. membership in an international convention.

In short, to assert that the United States lacks credibility on the issue of international women's rights due to its non-membership in CEDAW is simply specious.

Beyond the dubious public diplomacy benefit that would allegedly be enjoyed by the United States upon ratification of CEDAW, it is difficult to determine how U.S. national interests would otherwise be advanced by participating in the central activity required by the treaty—reporting to the CEDAW Committee every four years regarding the U.S. record on women's rights. The CEDAW Committee has for 30 years established a consistent record of promoting gender-related policies that do not comport with existing American legal and cultural norms and has encouraged the national governments of CEDAW members to engage in social engineering on a massive scale.

For instance, Article 5 of CEDAW compels members of the treaty to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on . . . stereotyped roles for men and women." The CEDAW Committee has cited this provision over the years to oblige member states to seek the modification of the roles of men and women as husbands, wives, caregivers, and breadwinners.

The Committee appears to be particularly contemptuous of the role of women as mothers and caregivers. For example, in 1999 it determined that "the persistence of the emphasis on the role of women as mothers and caregivers [in Ireland] tends to perpetuate sex role stereotypes and constitutes a serious impediment to the full implementation of the Convention." In its report on Georgia, the

Committee expressed concern over "the stereotyped roles of women . . . based on patterns of behaviour and attitudes that overemphasize the role of women as mothers." In 2000, the Committee issued its now famous concluding observation to Belarus in which it referred to Mothers' Day as a stereotypical symbol and chided Belarus for "encouraging women's traditional roles."

The CEDAW Committee has made other policy choices that are inconsistent with U.S. societal norms. Prostitution, in particular, has been treated by the Committee not as a crime that should be discouraged, but rather as a reality that should be tolerated and regulated. Indeed, the Committee appears to have little or no regard for the moral choices made by member states concerning whether they consider prostitution to be a criminal act that should be prohibited. For instance, in 2001, a representative from Guinea told the Committee that prostitution was "one of the social scourges" in Guinea and was illegal and "rejected and condemned by society." Undaunted, the Committee ignored Guinea's social and cultural norms and urged the government not to "penaliz[e] women who provide sexual services." Similarly, in 1999, the Committee instructed Liechtenstein to "review . . . the law relating to prostitution to ensure that prostitutes are not penalized." Also in 1999, the Committee told China that it was "concerned that prostitution . . . is illegal in China." Rather than recommending that China take steps to reduce poverty and enhance economic freedom to alleviate the problem, the Committee "recommend[ed] decriminalization of prostitution."

Many of the policy choices prescribed by the CEDAW Committee are at odds with other social, political, cultural, legal, and democratic norms in the United States. The Committee supports the concept of "comparable worth" to address allegations of gender discrimination in compensation. It advocates the use of quota systems to achieve de facto equality in various fields including education, politics, and employment—a policy that demands equal outcomes rather than equal opportunity. Finally, and controversially, the Committee regularly instructs member states to amend their laws to ease restrictions on abortion.

In short, it does not advance U.S. national interests to submit itself to scrutiny every four years by a committee of gender experts that has already demonstrated its divergence with U.S. policy choices, including on highly controversial issues regarding American social and cultural norms. In the eyes of the CEDAW Committee, the current laws and norms of the United States place it in direct and flagrant violation of CEDAW's provisions, even though those provisions arguably seek to dictate women's roles in a manner that may not be welcomed by all women or, in the case of prostitution, may be antithetical to their welfare.

The United States should not make international political commitments that it cannot keep due to its own legal, social, and cultural traditions, and joining CEDAW will unfairly place it in an untenable position.

An objective analysis of CEDAW indicates that ratifying it would not advance U.S. national interests either at home or abroad.

U.S. ratification of CEDAW would produce, at best, an intangible and fleeting public diplomacy benefit in the international community. The United States need not become party to the convention to demonstrate its commitment to women's rights or to advance the cause of women in other nations. Any nation that questions U.S. dedication to protecting the rights of American women need only review the architecture of our laws and the network of state and federal agencies that enforce those laws.

Instead of seeking membership in CEDAW, the U.S. Congress and American civil society should continually review the implementation of existing laws barring gender discrimination in all spheres of domestic life. Those entities are far better positioned to conduct such a review than a committee of supposed gender experts from 23 foreign nations.

Steven Groves is Bernard and Barbara Lomas Fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, The Heritage Foundation. He has served as senior counsel to the U.S. Senate Permanent Subcommittee on Investigations and as an assistant attorney general for the state of Florida. Groves received his law degree from Ohio Northern University.

EXPLORING THE ISSUE

Should the United States Ratify the Convention to Eliminate All Forms of Discrimination Against Women?

Critical Thinking and Reflection

1. Start by reading the text of CEDAW at www.un.org/womenwatch/daw/cedaw/cedaw.htm. Then ask yourself whether it protects any rights that American women should not have. If it does so, which ones?
2. Those who worry about U.S. sovereignty argue that if U.S. law and the U.S. courts refused to uphold the rights women have under CEDAW, the women could appeal to international courts for justice. Is that ability to appeal good or bad?
3. Is U.S. ratification of CEDAW superfluous given the extensive range of rights American women already have?

Is There Common Ground?

The concentrated effort to promote women's rights internationally within the context of advancing globalism dates back only to 1975, which the UN declared the International Women's Year. There have been many changes that benefit women since that time, but those changes have only begun to ease the problems that advocates of women's rights argue need to be addressed. CEDAW has been a keystone of the international effort to promote women's rights. As of late 2014, 188 countries had adhered to CEDAW, leaving only eight countries [the United States, the Holy See (Vatican), Iran, Sudan, Somalia, Palau, newly formed South Sudan, and Tonga] that have not formally adhered to CEDAW.

The hearings held by the Senate Judiciary Committee in 2010 were more a symbolic show of support than portending any real chance the Senate would ratify the treaty. Indicative of that it is the Senate Foreign Relations Committee that has jurisdiction over treaties and would under most circumstances have to hold hearings prior to a treaty moving for debate and decision on the Senate floor. That did not happen in 2010 at least in part, analysts conclude, because the Obama administration, while supporting CEDAW, has not made a concerted effort to get the Senate to ratify it.

Additional Resources

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CEDAW 2014

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Unit 5

UNIT

Environmental and Social Issues

A key aspect of international relations over the last two centuries or so has been the "coming together" of the world, with countries, their companies, and other organizations, and their people interacting across national borders at a vastly accelerated pace and on an expanding range of matters. The distinction between national and international problems has become increasingly blurred.

Even within this relatively recent phenomenon of seeing many problems as global and needing global solutions, environmental and social issues are something of the "new kids on the block." On the social front, human rights were virtually a nonissue among countries a hundred years ago, and it's even more recent that poverty, disease, and other social issues have come onto the international agenda. A central advance came in 1948 with the UN's Universal Declaration of Human Rights (UDHR), which detailed a broad range of basic civil, political, economic, social, and cultural rights that all humans should possess. In addition to such commonly thought of civil and political rights, such as freedom of religion and freedom from cruel and unusual punishment, the UDHR endorsed a range of social and economic rights. For example, Article 25 declares:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

From this beginning, the idea has slowly grown that not just individual governments for their own people, but people and countries everywhere should take steps to end such age-old oppressions as poverty, illiteracy, lack of sanitation, and inadequate health care that limit the human potential.

The environment is an even more recent entry on the global agenda. The depletion of the ozone layer, the pollution of the oceans, the decline in water resources, the disappearance of the world's forests, and global warming are but some of the problems that can only be fully addressed by agreeing there is a global responsibility to cooperate to ease or end these threats.

This unit also addresses the role of the individual in the international system. Each of us is a citizen of our country, but it is arguable that each of us is also a citizen of the world. What if the two citizenships clash? Some would argue that there is no choice—my country, right or wrong—but is that an old thought for an old world system that no longer exists?

Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Was the United States Correct to Leave the Paris Climate Accord?

YES: **Donald J. Trump**, from "Statement by President Trump on the Paris Climate Accord," *Whitehouse.gov* (2017)

NO: **Daniel B. Baer, et al.**, from "Why Abandoning Paris Is a Disaster for America," *Foreign Policy* (2017)

Learning Outcomes

After reading this issue, you will be able to:

- Explain the commitments states made in the Paris Climate Accord.
- Explain the differences between the Kyoto Protocol and the Paris Climate Accord.
- Assess whether the Paris Climate Accord will be effective in combatting climate change.

ISSUE SUMMARY

YES: Donald J. Trump, President of the United States, in a speech given in the Rose Garden of the White House in June 2017, provides an explanation for his decision to withdraw the United States from the Paris Climate Accord. He suggests that the Accord is both unfairly harmful to the U.S. economy and ineffective at addressing climate change.

NO: Daniel B. Baer and his coauthors, all of whom served in the Obama administration, reject President Trump's assertions and argue that a U.S. withdrawal will not only detrimentally impact the world's climate but also its own standing as a global leader.

The past few centuries have witnessed rapid increases in human prosperity driven in substantial part by industrialization, electrification, the burgeoning number of private and commercial vehicles, together with a host of other inventions and improvements that require massive amounts of fossil fuel (mostly coal, petroleum, and natural gas) to operate. The burning of fossil fuels gives off carbon dioxide into the atmosphere. The discharge of carbon dioxide from burning wood, animals exhaling, and some other sources is nearly as old as the Earth itself, but the industrial and population advances since the beginning of the industrial revolution in the mid-1700s have rapidly increased the level of discharge.

Since 1950 alone, annual global carbon dioxide emissions have more than tripled. Much of it is retained in the atmosphere because the ability of nature to cleanse the atmosphere through plant photosynthesis has simply been overwhelmed by the sheer volume of fossil fuel use. The ability of nature to deal with the problem has also been undermined by massive global deforestation, which has principally occurred because of human habitation and the need for large-scale agriculture.

Almost all of the scientific community takes the view that human-generated carbon dioxide has at least accelerated global warming. The reason, they contend, is the greenhouse effect. As carbon dioxide accumulates in the upper atmosphere, it creates a blanket effect, trapping

heat, and preventing the nightly cooling of the Earth. Other "greenhouse gases," such as methane, also contribute to this phenomenon.

Some believe that the current warming would be underway, at least to some degree, regardless of human activity. Over the last 400 million years of Earth's history, there have been cycles of rising and declining temperatures, each of which has lasted around 150,000 years. The last high peak occurred about 125,000 years ago; the following low was about 10,000 years ago, after which temperatures began to rise again. Some argue, therefore, that the current global warming trend is partly an extension of this long-term acceleration. What is clear, however, is that over the last century Earth's average temperature has risen about 1.1°F and that the last decade has been the warmest since temperature records were first kept in 1856.

Most scientists also believe that global warming will have a dramatic, and in some cases catastrophic, impact on rainfall, wind currents, and other climatic patterns. More extreme weather events have been predicted, including more and larger hurricanes, droughts, downpours, and heatwaves. Among other effects, the polar ice caps are melting faster, and sea levels have risen globally by an average of two and a half inches in the past two decades.

Perhaps more difficult than analyzing the problem is coming up with a workable solution. The first major international effort to control carbon dioxide emissions was the Kyoto Protocol (technically an extension of the 1992 UN Framework Convention on Climate Change, but effectively a stand-alone treaty) of 1997. It was a UN-sponsored international treaty that set mandatory targets for reducing greenhouse gas emissions. However, only the wealthy, already industrialized, nations were affected. The poorer "developing nations" were made exempt because it was felt they should not have to limit the development of their economies to fix a problem they had not caused. The United States officially withdrew from the agreement in 2002, when George W. Bush entered into office, even though the cuts to emissions were not due to take effect until 2007.

As the provisions of the Kyoto Protocol extended only until 2012, another international conference was held in 2009, this time in Copenhagen, Denmark. The resulting Copenhagen Accord adopted new limits, but was judged by many to have failed because none of the limits were binding and even these nonbinding limits were cuts to projected future levels, not cuts from current levels (as the Kyoto Protocol had been).

At this point, there was a need to achieve two things. First, a mechanism had to be found to encourage states to commit to reducing their greenhouse emissions, but that would not set mandatory limits. This approach had failed in the Kyoto Protocol, leading states to withdraw from it completely. Second, the industrializing states like China and India needed to be included. China had become the world's second largest economy by 2011, but it had also become the world's largest greenhouse gas emitter. India had become the world's third largest greenhouse gas polluter. These states had to be included in any agreement for it to be deemed effective and fair.

To achieve these goals another conference was held in December of 2015 in Paris, France. In the resulting Paris Climate Accord, the participating states agreed to submit voluntary pledges to cut their greenhouse gas emissions. There were no penalties for failing to meet these targets. Participating states were simply expected to meet regularly to discuss how they were achieving their goals and then adjust their commitments to levels they thought appropriate (as the Paris Accord in nonbinding it does not require U.S. Senate approval). A $100 billion fund was also established to help developing countries absorb some of the costs of transforming their economies. The United States committed to contribute $3 billion to the fund by 2020, while China committed $3.1 billion.

In the first selection of this debate, President Donald Trump argues in his speech given in the Rose Garden of the White House in June 2017 that the United States has to withdraw from the Paris Accord because it will hurt its economy, lead to higher fuel prices and allow other states to take advantage of it. Interestingly, these were the same concerns expressed by the Bush administration about the Kyoto Protocol back in 2002. For Daniel Baer and his colleagues in the second selection, the arguments made by the President are just not persuasive. Instead, they see a future in which the "green economy" creates new jobs and innovations, while combatting an existential climate threat. The voluntary nature of the Accord also means that other countries cannot take advantage of the United States—as it can change its commitments at any time. However, by withdrawing, the United States will definitely hand the advantage in the green economy and global leadership to China and other countries, who are already investing heavily in a cleaner future.

YES

Donald J. Trump

Statement by President Trump on the Paris Climate Accord

. . . In order to fulfill my solemn duty to protect America and its citizens, the United States will withdraw from the Paris Climate Accord but begin negotiations to reenter either the Paris Accord or a really entirely new transaction on terms that are fair to the United States, its businesses, its workers, its people, and its taxpayers. So we're getting out. But we will start to negotiate, and we will see if we can make a deal that's fair. And if we can, that's great. And if we can't, that's fine. As President, I can put no other consideration before the well-being of American citizens. The Paris Climate Accord is simply the latest example of Washington entering into an agreement that disadvantages the United States to the exclusive benefit of other countries, leaving American workers and taxpayers to absorb the cost in terms of lost jobs, lower wages, shuttered factories, and vastly diminished economic production.

Thus, as of today, the United States will cease all implementation of the nonbinding Paris Accord and the draconian financial and economic burdens the agreement imposes on our country. This includes ending the implementation of the nationally determined contribution and, very importantly, the Green Climate Fund which is costing the United States a vast fortune.

Compliance with the terms of the Paris Accord and the onerous energy restrictions it has placed on the United States could cost America as much as 2.7 million lost jobs by 2025 according to the National Economic Research Associates. This includes 440,000 fewer manufacturing jobs—not what we need—believe me, this is not what we need—including automobile jobs, and the further decimation of vital American industries on which countless communities rely. They rely for so much, and we would be giving them so little.

According to this same study, by 2040, compliance with the commitments put into place by the previous administration would cut production for the following sectors: paper down 12 percent; cement down 23 percent; iron and steel down 38 percent; coal down 86 percent; and natural gas down 31 percent. The cost to the economy at this time would be close to $3 trillion in lost GDP and 6.5 million industrial jobs, while households would have $7,000 less income and, in many cases, much worse than that.

Not only does this deal subject our citizens to harsh economic restrictions, it fails to live up to our environmental ideals. As someone who cares deeply about the environment, I cannot in good conscience support a deal that punishes the United States the world's leader in environmental protection, while imposing no meaningful obligations on the world's leading polluters.

For example, under the agreement, China will be able to increase these emissions by a staggering number of years—13. They can do whatever they want for 13 years. Not us. India makes its participation contingent on receiving billions and billions and billions of dollars in foreign aid from developed countries. There are many other examples. But the bottom line is that the Paris Accord is very unfair, at the highest level, to the United States.

Further, while the current agreement effectively blocks the development of clean coal in America . . . China will be allowed to build hundreds of additional coal plants. So we can't build the plants, but they can, according to this agreement. India will be allowed to double its coal production by 2020. Think of it: India can double their coal production. We're supposed to get rid of ours. Even Europe is allowed to continue construction of coal plants.

In short, the agreement doesn't eliminate coal jobs, it just transfers those jobs out of America and the United States, and ships them to foreign countries.

This agreement is less about the climate and more about other countries gaining a financial advantage over the United States. The rest of the world applauded when we signed the Paris Agreement—they went wild; they were so happy—for the simple reason that it put our country, the United States of America, which we all love, at a very, very big economic disadvantage. A cynic would say the obvious reason for economic competitors and their wish to see us remain in the agreement is so that we continue to

Trump, Donald. "Statement by President Trump on the Paris Climate Accord," June 2017.

suffer this self-inflicted major economic wound. We would find it very hard to compete with other countries from other parts of the world.

We have among the most abundant energy reserves on the planet, sufficient to lift millions of America's poorest workers out of poverty. Yet, under this agreement, we are effectively putting these reserves under lock and key, taking away the great wealth of our nation—it's great wealth, it's phenomenal wealth; not so long ago, we had no idea we had such wealth—and leaving millions and millions of families trapped in poverty and joblessness.

The agreement is a massive redistribution of United States wealth to other countries. At 1 percent growth, renewable sources of energy can meet some of our domestic demand, but at 3 or 4 percent growth, which I expect, we need all forms of available American energy, or our country will be at grave risk of brownouts and blackouts, our businesses will come to a halt in many cases, and the American family will suffer the consequences in the form of lost jobs and a very diminished quality of life.

Even if the Paris Agreement were implemented in full, with total compliance from all nations, it is estimated it would only produce a two-tenths of one degree—think of that; this much—Celsius reduction in global temperature by the year 2100. Tiny, tiny amount. In fact, 14 days of carbon emissions from China alone would wipe out the gains from America—and this is an incredible statistic—would totally wipe out the gains from America's expected reductions in the year 2030, after we have had to spend billions and billions of dollars, lost jobs, closed factories, and suffered much higher energy costs for our businesses and for our homes. As the Wall Street Journal wrote this morning: "The reality is that withdrawing is in America's economic interest and won't matter much to the climate." The United States, under the Trump administration, will continue to be the cleanest and most environmentally friendly country on Earth. We'll be the cleanest. We're going to have the cleanest air. We're going to have the cleanest water. We will be environmentally friendly, but we're not going to put our businesses out of work and we're not going to lose our jobs. We're going to grow; we're going to grow rapidly.

I'm willing to immediately work with Democratic leaders to either negotiate our way back into Paris, under the terms that are fair to the United States and its workers, or to negotiate a new deal that protects our country and its taxpayers.

So if the obstructionists want to get together with me, let's make them non-obstructionists. We will all sit down, and we will get back into the deal. And we'll make it good, and we won't be closing up our factories, and we won't be losing our jobs. And we'll sit down with the Democrats and all of the people that represent either the Paris Accord or something that we can do that's much better than the Paris Accord. And I think the people of our country will be thrilled, and I think then the people of the world will be thrilled. But until we do that, we're out of the agreement.

I will work to ensure that America remains the world's leader on environmental issues, but under a framework that is fair and where the burdens and responsibilities are equally shared among the many nations all around the world.

No responsible leader can put the workers—and the people—of their country at this debilitating and tremendous disadvantage. The fact that the Paris deal hamstrings the United States, while empowering some of the world's top polluting countries, should dispel any doubt as to the real reason why foreign lobbyists wish to keep our magnificent country tied up and bound down by this agreement: It's to give their country an economic edge over the United States. That's not going to happen while I'm President. I'm sorry.

My job as President is to do everything within my power to give America a level playing field and to create the economic, regulatory, and tax structures that make America the most prosperous and productive country on Earth, and with the highest standard of living and the highest standard of environmental protection.

The Paris Agreement handicaps the United States economy in order to win praise from the very foreign capitals and global activists that have long sought to gain wealth at our country's expense. They don't put America first. I do, and I always will.

The same nations asking us to stay in the agreement are the countries that have collectively cost America trillions of dollars through tough trade practices and, in many cases, lax contributions to our critical military alliance. You see what's happening. It's pretty obvious to those that want to keep an open mind.

At what point does America get demeaned? At what point do they start laughing at us as a country? We want fair treatment for its citizens, and we want fair treatment for our taxpayers. We don't want other leaders and other countries laughing at us anymore. And they won't be. They won't be.

I was elected to represent the citizens of Pittsburgh, not Paris. I promised I would exit or renegotiate any deal which fails to serve America's interests. Many trade deals will soon be under renegotiation. Very rarely do we have a deal that works for this country, but they'll soon be under renegotiation. The process has begun from day one. But now we're down to business.

Beyond the severe energy restrictions inflicted by the Paris Accord, it includes yet another scheme to redistribute wealth out of the United States through the so-called Green Climate Fund—nice name—which calls for developed countries to send $100 billion to developing countries all on top of America's existing and massive foreign aid payments. So we're going to be paying billions and billions and billions of dollars, and we're already way ahead of anybody else. Many of the other countries haven't spent anything, and many of them will never pay one dime.

The Green Fund would likely obligate the United States to commit potentially tens of billions of dollars of which the United States has already handed over $1 billion—nobody else is even close; most of them haven't even paid anything—including funds raided out of America's budget for the war against terrorism. That's where they came. Believe me, they didn't come from me. They came just before I came into office. Not good. And not good the way they took the money.

In 2015, the United Nation's departing top climate officials reportedly described the $100 billion per year as "peanuts," and stated that "the $100 billion is the tail that wags the dog." In 2015, the Green Climate Fund's executive director reportedly stated that estimated funding needed would increase to $450 billion per year after 2020. And nobody even knows where the money is going to. Nobody has been able to say, where is it going to?

Of course, the world's top polluters have no affirmative obligations under the Green Fund, which we terminated. America is $20 trillion in debt. Cash-strapped cities cannot hire enough police officers or fix vital infrastructure. Millions of our citizens are out of work. And yet, under the Paris Accord, billions of dollars that ought to be invested right here in America will be sent to the very countries that have taken our factories and our jobs away from us. So think of that.

There are serious legal and constitutional issues as well. Foreign leaders in Europe, Asia, and across the world should not have more to say with respect to the U.S. economy than our own citizens and their elected representatives. Thus, our withdrawal from the agreement represents a reassertion of America's sovereignty. Our Constitution is unique among all the nations of the world, and it is my highest obligation and greatest honor to protect it. And I will.

Staying in the agreement could also pose serious obstacles for the United States as we begin the process of unlocking the restrictions on America's abundant energy reserves, which we have started very strongly. It would once have been unthinkable that an international agreement could prevent the United States from conducting its own domestic economic affairs, but this is the new reality we face if we do not leave the agreement or if we do not negotiate a far better deal.

The risks grow as historically these agreements only tend to become more and more ambitious over time. In other words, the Paris framework is a starting point—as bad as it is—not an end point. And exiting the agreement protects the United States from future intrusions on the United States' sovereignty and massive future legal liability. Believe me, we have massive legal liability if we stay in.

As President, I have one obligation, and that obligation is to the American people. The Paris Accord would undermine our economy, hamstring our workers, weaken our sovereignty, impose unacceptable legal risks, and put us at a permanent disadvantage to the other countries of the world. It is time to exit the Paris Accord and time to pursue a new deal that protects the environment, our companies, our citizens, and our country.

It is time to put Youngstown, Ohio, Detroit, Michigan, and Pittsburgh, Pennsylvania—along with many, many other locations within our great country—before Paris, France. It is time to make America great again. Thank you.

Donald J. Trump is the 45th president of the United States.



Daniel B. Baer, et al.

NO

Why Abandoning Paris Is a Disaster for America

Ever the showman, President Donald Trump tweeted Wednesday about his soon-to-be-announced decision on whether or not to pull out of the Paris Climate Agreement with the air of a 1950s Las Vegas emcee building up his audience's anticipation for an upcoming act. But the decision to remove the United States from the long-negotiated, hard-fought, international agreement is no sideshow. This is about what's in the best interests of American prosperity and security.

As promised, Trump stepped to the podium in the Rose Garden on Thursday afternoon, announcing that the United States would leave the Paris Accord. The decision will have serious, irreversible repercussions for the United States and the world.

The president's justifications for leaving the agreement are also just plain wrong.

First, contrary to the president's assertions, America's hands are not tied and its sovereignty is not compromised by the Paris climate pact. The Paris Agreement is an accord, not a treaty, which means it's voluntary. The genius (and reality) of the Paris Agreement is that it requires no particular policies at all—nor are the emissions targets that countries committed to legally binding. Trump admitted as much in the Rose Garden, referring to the accord's "nonbinding" nature. If the president genuinely thinks America's targets are too onerous, he can simply adjust them (although we believe it would be shortsighted for the administration to do so). There is no need to exit the Paris Accord in search of a "better deal." Given the voluntary nature of the agreement, pulling out of the Paris deal in a fit of pique is an empty gesture, unless that gesture is meant to be a slap in the face to every single U.S. ally and partner in the world.

The second big lie is that the Paris Agreement will be a job killer. In fact, it will help the United States capture more 21st-century jobs. That is why dozens of U.S. corporate leaders, including many on the president's own advisory council, urged him not to quit the agreement. As a letter sent to the White House by ExxonMobil put it, the agreement represents an "effective framework for addressing the risk of climate change," and the United States is "well positioned to compete" under the terms of the deal.

Action on climate and economic growth go hand in hand, and are mutually reinforcing. That is why twice as much money was invested worldwide in renewables last year as in fossil fuels, and why China is pouring in billions to try to win this market of the future. A bipartisan group of retired admirals and generals on the CNA Military Advisory Board is about to release a report that will also spell out the importance of competitiveness in advanced energy technologies—not just to the economy but also to the country's standing in the world. Pulling out of climate will result in a loss of U.S. jobs and knock the United States off its perch as a global leader in innovation in a quickly changing global economic climate.

The rationale for ditching America's commitment to the Paris Accord just doesn't hold up. Moreover, Trump's decision to withdraw from the Paris Agreement comes with several serious and lasting consequences for the United States and the world:

The Trump administration is hastening catastrophic effects of climate change. Scientists and economists now state with confidence that the failure to act to arrest and mitigate global climate change will have devastating global consequences, including for young Americans alive today and for their children and grandchildren. Donald Trump himself may well live to see more climate-related catastrophes hit the homeland. His children and grandchildren certainly will.

Americans all over this country are already seeing the changes—storms are more severe, big floods come more often, and in the most extreme case, Arctic waters are melting and opening up sea lanes for the first time in recorded history. Trump saw the damage from Hurricane Sandy firsthand, a preview of what climate change has in store for future generations.

Baer, Daniel, et al. "Why Abandoning Paris Is a Disaster for America," *Foreign Policy*, June 2017. Copyright ©2017 by Foreign Policy. Used with permission.

Heading off the worst effects of climate change requires global action: Action by one country alone, no matter how powerful, cannot address the threat. But our country, one of the world's two largest carbon emitters, does have significant power to improve not just our own climate, but the world's—and Trump's decision takes us in the wrong direction. That's especially tragic in light of the signature achievement of the Paris Agreement, which was to get every country on board; now China and India have made the same commitments the United States and other highly developed countries have. It binds us all together through a political agreement—but the strength of that agreement depends on all of us meeting our nationally determined responsibilities.

Put simply, the U.S. decision to withdraw from the Paris Agreement will have impacts on the global climate that a future U.S. administration will not be able to undo. It will undermine the most significant and comprehensive coordinating mechanism for global action to combat climate change that we have. It will weaken an existing asset to defend present and future generations of Americans against a significant threat; it will undermine our security. Indeed, leading military experts, including Secretary of Defense James Mattis, have warned that the impact of climate change will lead to more refugee flows, more famine, more conflict, and more terrorism. As Mattis said, "Climate change is impacting stability in areas of the world where our troops are operating today." By withdrawing from this agreement, Trump would be ignoring an issue his own secretary of defense has said is a national security threat.

Trump is abdicating U.S. leadership and inviting China to fill the void. During his Rose Garden address, the president asserted that the Paris Agreement disproportionately benefits American competitors, such as China. Yet pulling out of the accord redounds to Beijing's benefit even more. The Paris Agreement was forged in part on the backbone of a preliminary understanding between the United States and China—the two largest carbon-emitting nations. In recent days, as Trump dithered about whether or not to stay in, the Chinese quickly seized the opportunity to claim the mantle of global leadership and have made clear that they will stay in, even as the United States pulls out. Chinese Premier Li Keqiang is riding the wake of Trump's disastrous visit to Europe, where China and the European Union are expected to release a joint statement on Friday reaffirming their commitment to combatting climate change. This follows Xi Jinping's defense of globalization and the importance of countries' looking beyond their own national interests at Davos earlier this year. Beijing will win an Olympics-sized soft-power boost by staying in while the Washington reneges.

Ceding U.S. leadership to the Chinese on this issue is likely to have political and economic costs. China, like Russia, sees value in any division between the United States and Europe—as a rising power it would rather negotiate with us separately rather than collectively. Europeans grateful to China for its continued partnership on climate will be less concerned to take account of U.S. interests with respect to, say, China's harmful industrial policy, human rights violations, or economic and military coercion expansionism in Asia. European deals with China for the production of infrastructure and equipment related to renewable energy will surely follow. Pulling out of Paris will weaken our geopolitical standing—and complicate our efforts to work with our partners and allies to manage a rising China. Other nations that see themselves as bearing the brunt of climate change, including those of strategic importance to the United States—such as Vietnam, the Philippines, or much of Africa—will now see China as part of the solution to their problem.

Pulling out of Paris will likely result in creating jobs in China that could have been created here in the United States. It will give Chinese and other countries' companies a leg up in the growing and competitive green economy, putting U.S. companies at a serious disadvantage. The industry and the jobs of the future are in renewables—Why would we cede any of that ground to Chinese, Indian, and European companies? The United States will be relegated from a global leader, economically and otherwise, to a member of a lonely camp of pariah countries that haven't signed this global pact, together with only Syria and Nicaragua. America First? Hardly.

Withdrawing from Paris will damage United States' standing in the world. Pulling out of Paris will call into question the word[world] of the United States and weaken our ability to call on other countries to work with us on other global threats, such as global terrorism and global pandemics. International agreements are not irrevocable; indeed this one, which the United States had a heavy hand in creating, was crafted carefully as a series of nationally determined, voluntary commitments precisely in order to gain worldwide support, and with the understanding that countries can adjust their commitments as needed. Walking away from that agreement sends a clear—and foolhardy—message to all other countries around the world: Don't trust the United States. And why should they, if we so evidently signal that U.S. foreign policy is utterly politicized, and that agreements signed with one administration will not be honored by the next. It is firmly in the U.S. interest to have others' trust—and for us to be able to demand in return—the durability of agreements, even when governments change. As a chief

architect and moral leader of the post-World War II order, our own behavior with respect to agreements and international law sets the example. If the most powerful country in the world has suddenly decided that signing and living up to an agreement no longer matters, why should it matter to other states?

Why should Russia, for example, fear any sanction for invading the sovereign territory of another country, or North Korea fear any reaction to flouting U.N. Security Council resolutions? Why would other countries look to the United States to lead—or choose willingly to follow our lead—when we come asking for commitments, to counter the Islamic State, or to address the next global pandemic?

In the wake of the president's disastrous first foreign trip, National Security Adviser H.R. McMaster and Director for the National Economic Council Gary Cohn were dispatched to attempt to reframe the trip on the *Wall Street Journal* op-ed page. There they gave perhaps the clearest and most alarming explanation of what America First means as a foreign policy and how it applies to the Paris Agreement. A key passage reads:

> The president embarked on his first foreign trip with a clear-eyed outlook that the world is not a "global community" but an arena where nations, nongovernmental actors, and businesses compete for advantage. We bring to this forum unmatched military, political, economic, cultural, and moral strength. Rather than deny this elemental nature of international affairs, we embrace it.

McMaster and Cohn are wrong. To be sure, the world is a competitive arena that has at times throughout history turned into bloody conflict and ruin. That is precisely the reason the United States has always looked for alliances and partnerships grounded not only in common interests but also in common values and commitments. It is also why wise presidents have long recognized that even as the most powerful nation on Earth—and in many cases precisely because of our global reach—the United States has an interest in a rules-based system. That system protects our citizens living overseas, our businesses operating overseas, and our military operations around the world. We threaten the underpinnings of that system at our peril.

Pulling out of Paris means Republicans own climate catastrophes. They are ignoring the scientific evidence and turning their backs on the best chance to address this global challenge. In fact, the majority of the population of every state in the United States supports staying in this agreement. The president and his Republican allies are flouting the will of the American people as our country walks away.

This week, there was news that this year's peach crop in South Carolina and Georgia was ruined by the extreme temperature swings—unseasonably hot in late winter and a cold snap in late spring. As extreme weather events like this and other phenomena associated with climate change accelerate, when we confront our next Katrina or Sandy, people will remember that it was Trump and the Republicans who did nothing. Make that worse than nothing: They lost ground and put their party ahead of the country.

Trump's pulling out of Paris means that the rest of us are called upon to do more—and we will. Even as the White House abandons the pact, there are plenty of ways for Americans to advance its goals. Many state and local governments are already tackling energy efficiency and emissions reductions. California, the sixth-largest economy in the world, will not abandon its emission standards. And many U.S. cities are a locus of both great innovation and high-impact investments. That is why Mayor Bill de Blasio announced this week that he will sign an executive order for New York City to uphold climate commitments even if the United States pulls out. Major corporations across this country have recognized the opportunities in clean energy and energy storage, and see the risks of inaction to their long-term profitability. ExxonMobil's shareholders even voted this week in support of more open and detailed analysis of the threats posed by climate change to the oil business. Entrepreneurs, investors, and researchers will continue to press forward with the next generation of innovations that can reduce carbon emissions. And we can all continue to pressure our political leaders to take serious action to confront this threat. If Trump ditches Paris, there's no time for despair—it's a time for action.

There are many reasons why pulling out of Paris is a bad idea. (In addition to those above, there's the fact that, like most divorces, this is a year's long legal process that requires more than a tweet or a speech.) Trump can bluster that he's putting America first, but climate change is real and will become far more dire in the coming years. The need for action to address it will remain urgent. The rest of the world won't be standing still and neither should we if we want to advance American security and prosperity.

Daniel Baer is a U.S. public servant who served as the United States Ambassador to the Organization for Security and Co-operation in Europe for the Organization for Security and Co-operation in Europe under the Barack Obama administration.

EXPLORING THE ISSUE

Was the United States Correct to Leave the Paris Climate Accord?

Critical Thinking and Reflection

1. Do you believe climate change is caused by human behavior?
2. Do you believe the voluntary nature of the Paris Accord will be effective in ensuring states lower their emissions?
3. Do you think the emerging "green economy" will encourage states to meet targets on emissions regardless of their pledges in the Accord?
4. Do you think the U.S will lose soft power by withdrawing from the Accord?

Is There Common Ground?

Taken at face value, there does appear to be significant common ground between the authors. President Trump does not disagree publicly with the assertion that climate change is predominantly human driven. His complaints focus only on the costs to the U.S economy of implementing the commitments made by the Obama administration to cut U.S. annual emissions of greenhouse gases by 26–28 percent below 2005 levels by 2025. If President Trump can be persuaded of the benefits of the green economy (or the costs of inaction become ever more apparent) then the cost–benefit ratio will change and the advantages of transforming the economy will be more attractive. President Trump even declared that he was open to a "renegotiation" of the Paris Accord or a completely new agreement—but the goal of combatting man-made climate change remains the same.

However, if the President has remained a climate sceptic, unconvinced of the connection between humans and climate change (he tweeted in 2012 that he thought it was a Chinese conspiracy to weaken the U.S. economy) then his speech only serves to hide the administration's true reason for withdrawing—a belief that there is no climate change problem. This would certainly explain why the President talks about the commitments in the Paris Accord made by the Obama administration in 2015 as if they were mandatory and irreversible, when in fact they are the opposite. If this is the case, then there is much less common ground between them. Perhaps, even if this is the case, the sight of future Chinese and Indian innovation in the green economy (China is now the world's largest investor in green energy) will spur the United States into the following suit.

Additional Resources

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UN and Climate Change

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Selected, Edited, and with Issue Framing Material by:
Stephen M. Hill, *University of Wisconsin – Eau Clarie*

ISSUE



Should the United States Deport Unauthorized and Unaccompanied Immigrant Children?

YES: Dan Coats, from "A Speech on the Floor of the U.S. Senate," *U.S. Congressional Record* (2014)

NO: Mark Seitz, from "Crisis on the Texas Border: Surge of Unaccompanied Minors," *Department of Homeland Security Strategic Plan* (2014)

Learning Outcomes

After reading this issue, you will be able to:

- Understand the opposing approaches to and priorities regarding immigration.
- Differentiate the issues in the debate over unauthorized immigrants in general from the debate over unaccompanied children.
- Explain how Bishop Seitz's recommendations about how the United States can begin to remedy the problem of unaccompanied children extend beyond the immediate status and treatment of the children to include U.S. policies to ease the violence and poverty that he claims are the cause of the children's flight from their home countries.

ISSUE SUMMARY

YES: Dan Coats, a U.S. senator from Indiana, argues that allowing the flood of unaccompanied children who have arrived illegally in the United States will only encourage the dangerous practice of sending them to the United States.

NO: Mark Seitz, the Roman Catholic bishop of the Diocese of El Paso, Texas, and head of the Committee on Migration of the United States Conference of Catholic Bishops, tells a committee of Congress that a faithful adherence to the "best interest of the child" standard should govern how all undocumented immigrant children are treated. In most cases Seitz argues the best interest of the child is to remain in the United States to avoid returning them to lives of poverty and, often, violence.

Immigration has become a hot topic in the United States in recent years. There has been a significant increase in the number of immigrants coming to the United States and the percentage of residents of the United States who are immigrants.

Legal immigration nearly tripled from an annual average of 330,000 in the 1960s, to an annual average of 978,000 in the 1990s, to an annual average of just over a million from 2000 through and 2013. These recent numbers seem huge, but they are approximately the same as the yearly number of legal immigrants between 1905 and 1914, a period when the U.S. population averaged about 90 million, less than 30 percent of the average U.S. population in recent years. Moreover, during the earlier period, legal immigrants equaled about 1.1 percent of the population, whereas the annual number of legal immigrants has equaled only about 0.3 percent of the American population during recent (2000–2013) years.

This data does not tell the complete story of immigration, though. Adding to the number of individuals entering the country is the sizable number of immigrants living

in the United States who have come without legal permission from the U.S. government. These immigrants are called "illegal immigrants" by some, especially those who want to reduce immigration and/or deport many of them, and called "undocumented immigrants" or "unauthorized immigrants" by those who take a more benign view of them and believe that most should be able to become citizens. It should be noted that children born in the United States are citizens, no matter what the status of their parents is (including mere visitors). Thus many immigrant families include parents without their immigration papers and children who are fully American citizens.

Estimates of the illegal/unauthorized population vary quite a bit, but numbered according the estimate of U.S. Department of Homeland Security (DHS, including the three main agencies that deal with immigration: Citizenship and Immigration Services, Immigration and Customs Enforcement, and the Border Patrol), there were 11.4 million undocumented immigrants living in the United States in 2012. As such, these immigrants constitute about 27 percent of the foreign-born residents of the United States and about 3.5 percent of the entire U.S. resident population. Among legal immigrants, about 42 percent have become citizens, with the remainder eligible for citizenship. Of course, none of the illegal/unauthorized immigrants are eligible for citizenship.

Although it is seldom voiced openly, the origin of immigrants is another factor that has added to the immigration debate. As recently as the 1950s, more than 70 percent of all documented immigrants coming to the United States originated in Europe, Canada, and other predominantly "white" countries. Changes in immigration law allowed increasing numbers of immigrants from countries in Latin American, the Caribbean, and Asia, with countries whose populations are mostly made up of "people of color." Now, about 80 percent of all legal immigrants come from these "nonwhite" countries, as do virtually all illegal immigrants. Among this group, DHS estimates that 59 percent are from Mexico and another 15 percent from Central America.

There have almost certainly been unauthorized immigrants in the United States since Congress first regulated immigration and citizenship in the Naturalization Act of 1790. But the number of these newcomers became an increasing source of debate beginning in the mid-1960s. Up to then, and until the United States ended the Bracero program, several hundred thousand Mexicans were allowed entry on temporary work visas. However, Congress ended that program in 1964 amid charges from one point of view that Bracero workers were being abused and charges from another point of view that they were taking jobs away from Americans.

Irrespective of the new law, Mexicans seeking economic opportunities and Americans business seeking cheap labor combined to not only maintain, but increase the flow of Mexican and also Central American illegal/unauthorized immigrants. By 1980, the U.S. Census Bureau estimated that between two and four million such immigrants, mostly Latinos, were in the country. Congress sought to deal with this group by passing a law in 1986 that allowed unauthorized immigrants who had entered the United States before 1982, who had been continuous residents, and who had met other requirements (such as no conviction of a felony) could apply for legal residency and eventually citizenship. Supporters claimed that this helped alleviate the problems such people face. Critics charge the amnesty merely encouraged more illegal/unauthorized immigration. The terror attacks of 9/11 and subsequent concern with terrorism has also come into play, with some arguing that potential terrorists could enter the United States unless stronger border security is put into place.

Whatever anyone's views, still more illegal/unauthorized immigrants have entered the country, and the debate has escalated. There have been some laws and executive actions easing the conditions of such immigrants and other laws strengthening border security to keep them out and increasing effort to deport them. But Congress and the president have not been able to agree on comprehensive reform. In recent years, the debate over immigration has become further confounded by an unprecedented increase in the number of unaccompanied and undocumented immigrant children arriving in the United States, mostly across the U.S./Mexico border. These children come from all over the world but predominately from Guatemala, El Salvador, Honduras, and Mexico. Whereas in fiscal years (FY) 2004–2011, the number of unaccompanied children apprehended by the U.S. government averaged around 6,000–8,000 per year, the total jumped to over 13,000 in fiscal year 2012 (FY, October 2011–September 2012), over 24,000 in FY 2013, and an estimated 60,000 in FY 2014.

The following selections touch on a wide range of issues such as whether to treat these children as refugees or illegal immigrants, how to house and otherwise care for them, and how to adjudicate their individual cases. The bottom line debate is whether to allow some or all of the children to remain in the United States. Senator Dan Coates says that the most common answer should be to return the children to their home country and parents or other guardians. Bishop Mark Seitz urges American to respond with compassion "to the needs of these children . . . [and] not turn them away or ostracize them."

YES

Dan Coats

A Speech on the Floor of the U.S. Senate

As have many Americans, I have watched with increasing concern and increasing frustration the rapidly growing humanitarian crisis on our southern border. More than 60,000 unaccompanied alien children—mostly minors from Guatemala, Honduras, and El Salvador—have been apprehended at the border in this fiscal year, and we have 2½ months remaining. The numbers are staggering. Another 40,000 family members—one or both parents traveling with their children—have also been apprehended just in this fiscal year. [The fiscal year, the U.S. budget year, extends from October 1 of one calendar year to September 31 of the next. The date of the fiscal year, such as fiscal year (FY) 2014 corresponds to the end-date of that year.]

To put these numbers in perspective, in 2008, the number of unaccompanied alien children apprehended at the border was 8,000. Three years later, in 2011, the number had doubled. It had doubled to 16,000. This is a situation we perhaps didn't see coming, but should have.

Today, of course, the numbers are staggering, as I mentioned. The number has skyrocketed. In fact, in April and May of this year, 10,000 have arrived. We simply cannot sit back and let this situation grow worse as it does day by day. We must now find a way to solve this crisis and stem the flow of unaccompanied minors entering our country. It is imperative that this Congress and this administration work together to do this and do this immediately. We dare not move toward our regularly scheduled August recess without accomplishing the solution or resolution of this current crisis, which is impacting children, impacting families, impacting communities, impacting many across the United States in terms of this crisis.

As we do this, I think it is important that we be guided by some key principles, including laws that are currently on the books—laws that might need to be adjusted—as well as compassionate hearts in terms of how we deal with those who are here but will need to be returned to their homeland.

First, clearly and foremost, we have to enforce existing law. Existing law says we need an orderly process. Immigration needs to be legal. It needs to be processed in an orderly way and in a way so that we can accommodate those who come from out of the country. I am the son of an immigrant who was processed through a legal process, a process that speaks for many of us not only here in this chamber [the Senate] but for many across America. We are all in a sense immigrants. For over 200 years, we have come as immigrants through a legal process. Today we find a situation where our borders are being swamped with those who are attempting to come illegally, for whatever reason. More importantly, we have to make it clear to them that the law does not allow this to happen. So we have to get control of the border. We have to get control of our immigration process.

I think all of us feel the need for immigration reform. Step No. 1 has to be securing our borders so we can convince the American people we can return to an orderly process of bringing immigrants to this country and not be overwhelmed by the illegal immigration flowing to our southern borders. It is also important because we need to let the families know and the children know their trip to America is not what has been promised them.

Many believe this humanitarian crisis is focused on how we handle these children once they arrive at the border, and there is a need to address that issue. But in reality, the crisis for these children begins when they start their trip, given the dangers of the journey. We now know the children who are making these dangerous treks from Central America are often in the hands of smugglers, drug cartels, coyotes—criminal elements that are delivering a false lie to families and individuals in these countries. They are basically saying, Get your children across the border and they will then be absorbed into American society and they will be in a better place. And, by the way, write us a check for $7,000 or $10,000 or $5,000, whatever the market bears, and we will ensure that your children arrive safely, and then you won't have to worry about them anymore. That is simply not true.

Sadly, from the latest information that has come to us, in surveys that are being taken and investigations that

Coats, Dan. "A Speech on the Floor of the U.S. Senate," *U.S. Congressional Record*, July 2014.

are being made, the story is horrendous. Often, for those in the hands of those who are seeking to bring them along the approximately 1,500-mile trip from Central America to the Texas border, the reality of what these children are facing and what these families are facing is startling and it is an issue that absolutely has to be addressed.

Doctors Without Borders exists in southern and central Mexico, and they did surveys of those who were attempting to make this trip. They indicated that 58 percent of their patients suffered at least—at least—one episode of violence along their way from Central America to the United States. One media network did an investigation that followed the path of Central American migrants, including children, and while their numbers have not been verified or documented, they are staggering. Even if the results are half of what they claim, it is a situation of immense humanitarian dysfunction. They found that 80 percent of all migrants will be assaulted, 60 percent of women will be raped, and only 40 percent will actually make it to the border.

Let's say those numbers are exaggerated. There is some indication this media outlet was, perhaps, sensationalizing their numbers. Let's say it is just half of that. But if it is half of that, it is a situation we absolutely cannot tolerate. We absolutely cannot sit by and say the only humanitarian crisis is taking care of these children once they cross the border—making sure they have vaccinations, sustenance, and a place to sleep until we get them processed. Those who claim that need to understand the crisis that exists before they ever get to the border, and the impact on these children in particular.

In 2010, when the narrative coming out of the administration was chipping away at our nation's immigration laws through the abuse of prosecutorial discretion, this generated whispers of hope that ran rampant through the families of our Central American neighbors and gave a false confidence that if you illegally enter our country, once you are here, you will be able to stay. The belief spread in 2012 when the President [Barack Obama] took his prosecutorial discretion a step further by essentially halting the removal of illegal immigrants who arrived as minors.

There was a process where, of course, they were given a piece of paper, which basically said: You have to appear before a judge, who will determine whether you are able to stay in the country or whether you will have to be sent back home.

The narrative there was: This is your document that allows you to stay in America. In fact, it was not that at all. But because of the overwhelming number of people who received these documents, allowing them to stay here until they were adjudicated by a judge—because that number now exists around 375,000, and there is no way we can possibly adjudicate these and make these decisions in a short amount of time—those who arrived simply melded into the society, and most never showed up before a judge who was making a decision about their legality or illegality.

A key part of what we have to do here, in my opinion, is a repatriation plan. It is easy to just simply throw money out there and say we will come up with a plan later. I cannot support a provision that does not have policy changes to address this situation—policy changes that will allow us to inform our Central American neighbors that they must make every possible effort to engage with us in telling the truth to their constituencies and the parents of these children as to what lies ahead for them: the fact that they will be subjected to potential brutality, unspeakable, brutal efforts and consequences of this trip, as well as returned to their families and their countries.

We have to together make this message clear that our laws require that these children be sent back, but we also have to make it abundantly clear they are putting their children at great harm and great risk to believe this narrative that says: They will be fine, they will be taken care of. Just give us the money and we will make sure your children become Americans and they will be fine in the future.

Secondly, I think we need to go a step further. To deter children from making this journey, we have to return those who have already come.

Included in a viable repatriation program has to be a streamlined process. I mentioned the number of the hundreds of thousands who are still waiting for their adjudication. There have been efforts and suggestions made by some of our colleagues on a bipartisan basis that we address and dramatically increase the number of judges who can go down to the border and make these decisions quickly so we can safely return these children home without having the horror of seeing these children rejected in different communities and no place to put them, as the numbers simply overwhelm our ability to care for them.

The administration does have some flexibility under current law to move families and children through these immigration proceedings in an accelerated manner. However, I believe—and the Secretary of Homeland Security has stated—that we need to go further to change current law to treat all unaccompanied alien children the same.

Now this is the President's own Secretary of Homeland Security, who has been to the border, whom I have met with and talked to several times, who is assiduously

trying to address this issue in a bipartisan way. We need to work together to make sure we put the processes in place and the policies in place before we simply decide on a number and hope for the best later.

We need to change the law to allow Central American children who qualify to choose voluntarily to return as well, rather than go through drawn-out immigration proceedings that should still lead to their removal and damage any chance they have to seek legal immigration in the future.

This narrative out there, this story out there, is: Oh well, just go back across the border. Then maybe tomorrow you will get back here, and someone else will pick you up, and you will go to a different place, and you will start the process all over again, and you will finally get handed a piece of paper, and then don't worry about showing up in 12 to 18 months later. You can meld into society, and everything will be well. That absolutely has to be addressed. If we do not do that, we will not succeed with this process.

We also need to use our leverage with these foreign countries to gain their cooperation if they refuse to cooperate with us—whether it is withholding foreign aid, whether it is any number of punitive measures. We need to make sure the governments of these nations understand the risk to their children, the harm to their children, and the fact that we are going to enforce the law, and that if they want to continue future relations with the United States through a legal immigration process, they have to work with us to convince their constituencies and give them the truth as to what is happening to their children—to engage in this process of working with us to stop this flow of illegals.

Now, obviously, we have to provide reasonable care for those who are already here. The vast majority of the new funding the President is requesting would go for caring for the illegal immigrants who are already here. It includes housing, transporting, and caring for the children and families already in the United States.

I believe it is our responsibility as a nation and as a compassionate society to care for the hurt and displaced. But we cannot simply open our arms and encourage all the world's children to strike out on their own, face endless dangers, and come to our shores with the belief that they will be welcomed and accepted and integrated into our society. We simply do not have the capacity to do that on a worldwide basis, and we see the trouble we are having from just three countries. What are we actually doing to stem the flow of unaccompanied alien children coming to the United States? And when will we begin to see the tide turn? That is something that has to happen and must happen initially.

Finally, in addition to the care which we must provide—the sustenance and the health care and the bedding and the nutrition and the efforts we need to make; and thank goodness for so many nonprofit organizations, churches, and others that have volunteered to join us in this particular effort—but it cannot be an ongoing effort. It has to be something that is accompanied by significant changes I have talked about before in terms of policy. You have to stop the bleeding. You have to stop the effort first and convince the American people that we finally gained control of our borders before we can move to any kind of sensible immigration reform.

This is going to be expensive. We are going to have to make sure the money we are spending is spent as part of a plan to address the problem—not just simply address it and have the problem continue, but address it in a way, on a one-time basis, that we put an end to this story: Send your children and they will be just fine.

The time is moving on, and I know my colleague is waiting to speak and we have votes coming up. So let me shorten this by simply concluding, at the end of the day, we have a huge humanitarian crisis on our hands on our border. I believe we have a moral responsibility to swiftly address and solve this crisis. We have to understand that the crisis involves more than just unaccompanied minors. We cannot ignore the national security implications of a weak border. There are many dark powers in this world that wish to see the influence of the United States diminish—that wish to extinguish the beacon of freedom that we have been to the world.

So for the sake of the rule of law, for the sake of our national security and the safety of these children, it is imperative we act now and get it right. It will only happen if this body, the Congress—the House and the Senate—and the President will work together to put in place, on an expedited basis, a sensible plan to address this humanitarian crisis. "Save the children" means: Don't put those children in the hands of smugglers, coyotes, criminal elements, only for them to go through the horrendous consequences that have become the humanitarian crisis we are addressing.

Dan Coats is a Republican U.S. senator from Indiana and a former U.S. ambassador to Germany (2001–2005). He received a JD degree from Indiana University.

Mark Seitz

NO

Crisis on the Texas Border: Surge of Unaccompanied Minors

I testify today about the humanitarian crisis of unaccompanied child migrants arriving at the US-Mexico Border. I am here to speak with you today about this special population of vulnerable children. In November 2013, I was privileged to lead a United States Conference of Catholic Bishops [USCCB] delegation traveling to Southern Mexico, El Salvador, Guatemala, and Honduras to examine and understand the flight of unaccompanied migrating children and youth from the region and stand in solidarity with these children and their families. During our mission to Central America, we visited migrant children shelters, heard tearful stories from grandmothers waiting to pick up their recently repatriated grandchildren, and listened to children as young as six years old speak solemnly of trafficking and exploitation that was inflicted upon them along their migration journey. The report that came out of our mission acknowledged that a new paradigm regarding unaccompanied children is upon us—namely it is clear that unaccompanied children are facing new and increased dangers and insecurity and are fleeing in response. As a result, this phenomenon requires a regional and holistic solution rooted in humanitarian and child welfare principles. Since our mission and report issuance, many of the humanitarian challenges facing this vulnerable population have persisted and increased. In my remarks, I will highlight and update our observations and recommendations from that report.

My testimony today will recommend that Congress:

- Address the issue of unaccompanied child migration as a humanitarian crisis requiring cooperation from all branches of the US government and appropriate the necessary funding to respond to the crisis in a holistic and child protection-focused manner;
- Adopt policies to ensure that unaccompanied migrant children receive appropriate child welfare services, legal assistance, and access to immigration protection where appropriate;
- Require that a best interest of the child standard be applied in immigration proceedings governing unaccompanied alien children;
- Examine root causes driving this forced migration situation, such as violence from non-state actors in countries of origin and a lack of citizen security and adequate child protection mechanisms; and
- Seek and support innovative home country and transit country solutions that would enable children to remain and develop safely in their home country.

Overview of the Current Situation of Unaccompanied Children

Since 2011, the United States has seen an unprecedented increase in the number of unaccompanied migrating children arriving at the US/Mexico border. These children come from all over the world but predominately from Guatemala, El Salvador, Honduras and Mexico. Whereas in fiscal years (FY) 2004–2011, the number of unaccompanied children apprehended by the US government averaged around 6,000–8,000 year, the total jumped to over 13,000 in FY 2012 and over 24,000 in FY 2013. ORR initially estimated that about 60,000 unaccompanied minors would enter the United States during FY 2014. Recent government estimates have been revised, projecting 90,000 child arrivals in FY 2014 and 130,000 in FY 2015.

As of June 20, US Customs and Border Patrol (CBP) have apprehended 52,000 in the Southwest Border region for FY 2014. In response to the increased number of unaccompanied children arriving at the US-Mexico border, HHS requested and received approval from the Department of Defense for the use of Lackland Air Force base in San Antonio and a Naval Base in Ventura County in California, which are, respectively, providing shelter to

Seitz, Mark. "Testimony During Hearings on Crisis on the Texas Border: Surge of Unaccompanied Minors," *Department of Homeland Security Strategic Plan*, July 2014.

1,290 and 600 children. Facilities at Fort Sill, Oklahoma, also will house 600 unaccompanied children. The federal government is currently looking at other housing facilities throughout the United States.

With the increasing numbers of unaccompanied children arriving at the US-Mexico border, we must understand who these children are, what is propelling them to travel alone on an increasingly dangerous journey, and what can be done to best address their welfare. Mr. Chairman, I would like to share the stories of three children—one from El Salvador, Guatemala, and Honduras—to give the committee a sense of the reality of the violence they are fleeing:

Factors Pushing Unaccompanied Children to the U.S. Border

In our delegation to Central America in November 2013, USCCB focused upon learning more about the push factors driving this migration and possible humane solutions to the problem. While poverty and the desire to reunify with family to attain security are ongoing motivations to migrate, USCCB found that that an overriding symbiotic trend has played a decisive and forceful role in recent years: generalized violence in the home and at the community and state level. Coupled with a corresponding breakdown of the rule of law, the violence has threatened citizen security and created a culture of fear and hopelessness that has pushed children out of their communities and into forced transit situations.

We acknowledged in our trip report in January that each country exhibited individual challenges which have added to these push factors. Additionally, in response to the increased flow of children in recent weeks, we also acknowledge that certain new country-specific factors may have impacted the latest flow of children. One such factor is the recent crackdown of gang-activity from within prisons in Honduras and efforts to increase police presence by newly elected leader Juan Orlando Hernández. With the increased efforts by the Honduran government to stem communications from gang-leaders within prisons, there are reports of increased violence as gangs fragment and midlevel criminal operators compete for control.

The ongoing generalized violence, leading to coercion and threats to the lives of citizens—particularly children—of these countries, is the overwhelming factor facing these children and propelling their migration. Extortion, family abuse and instability, kidnapping, threats, and coercive and forcible recruitment of children into criminal activity perpetrated by transnational criminal organizations and gangs have become part of everyday life in all of these countries. In addition to the violence and abuse at the community and national level, transnational criminal organizations, such as the Mexican-based Zeta cartel, which deals in the smuggling and trafficking of humans, drugs, and weapons, operate in these countries and along the migration journey with impunity, and have expanded their influence throughout Central America.

I note that the increase in violence in Guatemala, Honduras and El Salvador forcing children and adults out of their homes is affecting the entire region, not just the United States. For example, since 2008 Mexico, Panama, Nicaragua, Costa Rica, and Belize—the countries surrounding the Northern Triangle countries—have documented a 712% combined increase in the number of asylum applications lodged by people from El Salvador, Honduras, and Guatemala.

In our January trip report we detail the increased violence against children and families in Central America. Given the difficult conditions minors must confront in their home countries, USCCB believes that a robust protection regime for children must be implemented in Central America, Mexico, and the United States. Based on our presence in sending countries, we see the following as reasons for the increased number of children arriving in the United States:

a. Violence perpetrated by organized transnational gangs, loosely-affiliated criminal imitators of gangs, and drug cartels, has permeated all aspects of life in Central America and is one of the primary factors driving the migration of children from the region. USCCB found that in each country—particularly Honduras and El Salvador—organized gangs have established themselves as an alternative, if not primary, authority in parts of the countries, particularly in rural areas and towns and cities outside the capitals. Gangs and local criminal actors operating in Honduras, El Salvador, and Guatemala have consolidated their bases of power, expanded and upgraded their criminal enterprises and honed their recruitment and terror tactics. In many cases, the governments are unable to prevent gang violence and intimidation of the general public, especially youth. USCCB heard accounts of gang members infiltrating schools and forcing children to either join their ranks or risk violent retribution to them or their families. Even in prisons, incarcerated gang members are able to order violence against members of the community. There also were reports that law enforcement have collaborated with the gangs or at least have been lax in enforcing laws and prosecuting crimes. For example, according

to Casa Alianza, an NGO that works in Honduras, 93 percent of crimes perpetrated against youth in Honduras go unpunished.

b. Localized violence has severely exacerbated the lack of economic and educational opportunities for youth and has led to stress on the family unit, family breakdown, and even domestic abuse, which leaves children unprotected and extremely vulnerable. The escalation in violence, combined with the lack of jobs and quality education, has led to a breakdown in the family unit, as male heads of households—or sometimes both parents—have left for the United States, leaving children behind with relatives, often grandparents. Children who have parents working abroad are especially vulnerable to community violence and forced migration as they can become targets for gang extortion due to the perceived or actual remittances they may receive. Additionally, as children enter teenage years and are increasingly at risk for victimization or recruitment by gangs, it becomes increasingly difficult for their relatives, especially elderly grandparents, to protect them. To this end, the United Nations Development Program reports that 26.7% of all inmates in El Salvador they interviewed in 2013 never knew their mother or father growing up. Schools no longer function as social institutions that offer a respite from the violence and instead have become de facto gang recruitment grounds. As a result of being targeted because of their family situation or perceived wealth, children flee, as a strategy to escape the gangs, to help support the family, and to reunify with their parents or other loved ones, many of whom have been separated for years.

c. Abuse in the home also has created stress, fear and motivation to leave the family home as well as the community. The pressure on families from local violence, economic uncertainty, and family member absence has a deleterious effect on the family unit, as instances of domestic abuse towards women and children have grown. It has been documented that more unaccompanied children are reporting instances of child abuse and neglect undertaken by non-parental caretakers. Children, in particular girls, are particularly exposed to domestic violence. A survey carried out by UNICEF revealed that 7 out of 10 unaccompanied children reported having been abused in their homes. In El Salvador it was reported that the domestic violence and sexual abuse of women and girls in the private sphere remain largely invisible and are consequently underreported.

d. Migrating children do not find the protection they need once they arrive in Mexico, even those who are eligible for asylum. The United Nations High Commissioner for Refugees (UNHCR) has consistently reported that an increasing number of unaccompanied children from Central America in particular are vulnerable to exploitation and cannot access protection in Mexico. To this end, UNHCR and USCCB are working with government authorities to provide training to law enforcement and protection officers on identifying and screening vulnerable children.

As an example of this lack of protection, USCCB found one children's shelter dedicated to caring for migrant children who may attempt an asylum claim in the Southern Mexico region, in Tapachula. Another shelter in Mexico City, run by the Mexican government's division of child welfare [Desarrollo Integral de la Familia (DIF)] houses children who have won asylum but cannot be released until they are 18.

Children who request asylum usually remain in detention for months, with little help to navigate the legal system. Once a child wins asylum, the only placement option available is the DIF child shelter in Mexico City until age 18, as there is no foster care system in place for these children. Shelter care is not intended to be a long-term placement for children, and often leaves children vulnerable to exploitation. Because of the challenges in gaining asylum in Mexico and the absence of an effective child welfare system, children often choose deportation back home so they can try to migrate again.

e. Countries of origin lack the capacity to protect children adequately. USCCB found that Guatemala, Honduras, and El Salvador lack the capacity to protect children in their law enforcement, child and social welfare, and educational systems. As mentioned, organized criminal networks and other criminal elements are active in many communities and schools, and the government is unable to curb their influence because of corruption, lack of political will, or lack of resources. Law enforcement personnel, low-paid and low-skilled, are compromised by these criminal elements. Child welfare services are virtually non-existent, as are foster-care and family reunification and reintegration services.

f. A significant number of migrants, particularly youth, have valid child protection claims. While the popular perception of many in the United States is that migrants come here for economic reasons, USCCB found that a growing number are fleeing violence in their homelands. UNHCR recently found 58% of the unaccompanied children it interviewed from Central America and

Mexico had some sort of international protection claim. A similar study in 2006 found only 13% of these children had a protection claim. Children who exhibit international protection concerns may be eligible to remain in the United States legally in some form of recognized legal status, such as Special Immigrant Juvenile Status, as an asylee.

U.S. Response to the Humanitarian Crisis

We support the [Obama] Administration's immediate response to this crisis, which created an inter-agency response led by the Federal Emergency Management Agency (FEMA). We offer the following recommendations to ensure that children are cared for throughout the legal process:

a. For the children, the faithful adherence to the best interest of the child standard is necessary in all decision-making. The best interest of the child principle is an internationally recognized child welfare standard used in the U.S. child welfare system. It refers to a process of determining services, care arrangements, caregivers, and placements best suited to meet a child's short-term and long-term needs and ensure safety permanency, and well-being. When applied in the United States special importance is given to family integrity, health, safety, protection of the child, and timely placement. This means that all procedures, protocols, and mechanisms developed are child-friendly, trauma-informed, and administered by child welfare professionals; that children are screened and assessed for their immediate humanitarian protection needs and their long-term international protection needs; that during the pursuit of long-term solutions for the children they are placed in the least-restrictive settings (i.e. community-based); that all children are connected with social and legal services to address their immediate needs; that long-term and durable solutions are pursued that are in the children's best interests; and that where repatriation is the best alternative available that safe repatriation and reintegration be conducted in collaboration and coordination with the children's home governments, NGOs, and other implementing partners.

   Consistent with US child welfare norms, children should be placed in smaller community-based programs such as specialized foster care, group or small shelter programs which allow children to reside in family settings in communities. Large facilities are contrary to child welfare principles increase the risk of institutionalization, child maltreatment and losing track of children's individual needs.

b. For the United States government, a mutually supportive, intera-gency response is necessary to ensure we are leveraging the expertise and resources of the agencies that bear responsibility for addressing all aspects of the challenge. We are encouraged by the decision of the Administration to involve all relevant agencies of the government in responding to this crisis. The inter-agency work on the issue should incorporate clear leadership responsibilities and effective collaboration mechanisms to ensure the optimum results both in the United States and throughout the region.

c. Children should be properly screened and placed in the least restrictive setting, preferably with family or an appropriate sponsor. Children should be immediately screened, ideally by a child welfare specialist, as to whether 1) they are victims of human trafficking; and 2) whether they have special needs and require specific care, such as trafficking victims, children under 12, pregnant girls, and persons with disabilities. Where possible, children should be reunified with their family members during the course of their legal proceedings. Potential sponsors who can care for the child throughout the child's immigration proceedings should be identified and adequately screened. Children should not be released, pending fingerprint and background checks of their sponsors. HHS [Department of Health and Human Services] and other agencies should monitor, report, and respond to violations against children. As required under the law, expedited removal should not be used against unaccompanied children.

d. Families should be kept together, preferably in a community setting, and provided full due process rights. Families who are part of this migration flow, mainly women with young children, should not be detained in a restrictive setting. Alternatives to detention for these families should be explored, including with faith-based communities. Such models have been implemented in the past, with great success and at reasonable costs. The needs of mothers and children are best met in such a community setting, where their specialized needs can be met.

   Moreover, subjecting these families to expedited removal procedures, as intended by the Administration, could undercut their due process rights. Many would be unable to obtain an attorney and, because of their trauma and the setting of the immigration proceedings, would be unable to adequately articulate their fear of return.

e. Post-release reception assistance should be expanded to meet the rising need. We urge increased post-release services which address family preservation, child safety, community integration, access to counsel and continued participation in immigration proceedings. The lack of sufficient funding for assistance post-release increases the likelihood of family breakdown, makes it more difficult for children to access public education and community services, and decreases the likelihood that the children will show up for their immigration proceedings.

With the release from custody happening on a shorter time frame—now less than 30 days—and with up to 90% of UACs [unaccompanied children] being released from ORR custody to communities, UAC resources need to be prioritized into community-based reception services which are located where families live. ORR could leverage the infrastructure and expertise of the U.S. resettlement agencies by providing all of the children community-based, reception services. Reception services should be required for all UAC to assist the family with navigating the complex educational, social service, and legal systems.

f. Pastoral care and services should be provided to children. Mr. Chairman, these vulnerable children should have access to pastoral services, including visitation by religious, including priests, minister, and other faith leaders. To date, requests for visitation to the border patrol stations and shelters for this purpose has been denied by the Border Patrol and ICE.

Conclusion

The situation of child migration from Central America is a complex one, with no easy answers. It is clear, however, that more must be done to address the root causes of this flight and to protect children and youth in the process. Clearly this problem is not going away; in fact, it is getting more urgent in terms of the dire humanitarian consequences.

Too often, and especially recently in the media, these children are being looked at with distrust and as capable adult actors, instead of as vulnerable and frightened children who have been introduced to the injustice and horror of the world at an early age. Anyone who hears the stories of these children would be moved, as they are victims fleeing violence and terror, not perpetrators. USCCB found that these children long not only for security, but also for a sense of belonging—to a family, a community, and a country. They are often unable to find this belonging in their home country and leave their homes as a last resort.

In conclusion, I ask you to consider the individual stories of these vulnerable child migrants and open your minds and hearts to their plight while seeking meaningful and long-term regional solutions. I ask you to respond to the needs of these children, not to turn them away or ostracize them, as Americans are a compassionate people.

Mark Seitz is the Roman Catholic bishop of the Diocese of El Paso, Texas, and head of the Committee on Migration of the United States Conference of Catholic Bishops. He received an MA degree in theology from the University of Dallas.



EXPLORING THE ISSUE



Should the United States Deport Unauthorized and Unaccompanied Immigrant Children?

Critical Thinking and Reflection

1. Since almost all illegal and unaccompanied immigrant children are from Mexico, Central America, and other largely nonwhite countries, some charge that those want to deny them legal residency and eventual citizenship are racists. How do you evaluate this assertion?
2. Should families that arrive with minor children in the United States without authorization be treated the same or differently than unaccompanied children?
3. Is it reasonable to suppose that amnesty for illegal/unauthorized immigrants does not encourage further such immigration?
4. How much should the United States do financially and otherwise to follow Bishop Seitz's recommendations for easing poverty and violence in Mexico, Central America, and elsewhere?

Is There Common Ground?

Illegal/unauthorized immigrants, adults and children, are an ongoing problem in the United States that is not only not going to go away without significant changes but is also progressively getting more complex and even odd. Such immigrants are not a transient population. According to a Department of Homeland Security Study in 2011, 31 percent of these immigrants entered the country earlier than 1995. Another 55 percent had been in the country for between 5 and 15 years, with only 14 percent having arrived in 2005 or later. Moreover, there is a huge number, probably at least a million, of children and adults who were born in the United States of illegal/unauthorized immigrant parents. These children and adults are citizens, and deporting their parents after, in many cases, decades of residency would be harsh, indeed. Then there are the unaccompanied children. If they are allowed to stay, should their parents, siblings, and perhaps other members of their extended be allowed to join them?

At base, it seems that two things have to happen. One is that the flow of undocumented immigrants needs to be stopped. It makes a mockery of immigration law if those who cannot get into the country legally or who don't want to wait for entrance can try to enter anyway and, if they do so and are here long enough, can get drivers licenses, American schooling and other benefits, and even citizenship. It is also important to understand that to a degree, earlier undocumented immigrants were encouraged to come here or rewarded after they came by jobs and other incentives. Some had children when they came, some were parents whose children were born in the United States and thus citizens. Most have worked, paid taxes, and lived within the law, except for their illegal entry. Deporting them would be cruel and unusual punishment. There is something of a standoff, with Republicans wanting to halt the flow of illegal immigrants before creating ways for existing and clean-living undocumented immigrants to be able to come out of the shadows, get resident status, and progress toward citizenship. Doing both is what most Americans favor. A 2013 Pew Research Center survey found 77 percent of Americans favor a reform that combines allowing illegal/unauthorized immigrants who meet certain requirements to stay in the country providing for increased security along the borders. However, just like the advocates in this debate, Americans are split on their priorities. Some 49 percent say these immigrants should be permitted to gain legal status while border improvements are being made, and 43 percent want the path to residency to stay closed until after a secure border has been established. Moving ahead vigorously on both fronts would seem to be the common ground.

Additional Resources

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Nowrasteh, Alex. (June 8, 2014). "Unaccompanied Minors and Unintended Consequences." *The Hill* online, reproduced on the Cato Institute website at http://www.cato.org/publications/commentary/unaccompanied-minors-unintended-consequences?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+CatoHomepageHeadlines+(Cato+Headlines)

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U.S. Census Bureau—Immigration

http://www.census.gov/population/intmigration/

U.S. Department of Homeland Security

http://www.dhs.gov/immigration-statistics

