Global Citizenship

Address to Seton Hall University,
by Gil Carlos Rodriguez Iglesias,
President of the European Court of Justice [1]

October 29, 2001

Monsignor,
Ambassador Constantinou,
Provost,
Members of the faculty,
Dear Students,
Ladies and gentlemen,

It is a great honor to be here today to be named the Global Citizen of the School of Diplomacy of Seton Hall University. I take great pleasure in this unique occasion.

First of all I should like to express my gratitude to the University, to the School of Diplomacy, to the President, Monsignor Sheeran, and to the Dean, Ambassador Constantinou.

Let me mention that I first met Clay Constantinou in Luxembourg, when he was the Ambassador of the United States, and we developed extremely cordial relations. I know that he was and he is strongly committed to building bridges across the Atlantic, and his contribution to transatlantic cooperation has been impressive. I should like to thank him in particular for the role he has played in fostering the cooperation between the European Court of Justice and the Supreme Court of the United States and also with American universities and of course I am particularly grateful for his initiative in inviting me here.

My brief address will focus on the title that you are so kindly giving me today: Global Citizen. I will try to sketch quite freely some of the questions and ideas that this expression brings to my mind.

I think the idea of global citizenship points to an ideal of universal norms and institutions that give shape to a world order based on justice, liberty, and equality: what I would like to call the global rule of law.

Certainly a fine ideal, but some would deem it Utopian. Perhaps they are right, but, as the word itself makes clear, Utopian ideas that do not belong to this world, sometimes have an important influence in reality and may help to improve the course of events. This has happened with the idea of Global Citizenship, or similar ideas.

Gil Carlos Rodriguez Iglesias is President of the European Court of Justice.

In the history of ideas, this notion of global citizenship has very old and deep roots. Many authors have delved into it. I shall only refer to two of them.

Eighteen centuries ago, the Roman Emperor Marcus Aurelius wrote the following passage:

> All things are implicated with one another, and the bond is holy; and there is hardly anything unconnected with any other thing. For things have been coordinated, and they combine to form the same order. For there is one universe made up of all things, and one god who pervades all things, and one substance, and one law, one common reason in all intelligent animals, and one truth; if indeed there is also one perfection for all animals which are of the same stock and participate in the same reason.[2]

In 1795, Immanuel Kant published his *Philosophical Sketch on Perpetual Peace* (*Zum ewigen Frieden*).[3] In this interesting and enduring essay, Kant reflects on similar ideas to those of Marcus Aurelius, but his thought is somewhat more sophisticated.

I think the idea of global citizenship points to an ideal of universal norms and institutions that give shape to a world order based on justice, liberty, and equality.

Kant lays down a series of definitive articles for perpetual peace, on which he then comments. In the second article he proposes that "the law of nations shall be founded on a federation of free states." The third definitive article for perpetual peace, which goes to the heart of my address, reads as follows: "The law of world citizenship shall be limited to conditions of universal hospitality." Global citizenship and world citizenship are basically the same notion. For Kant, "hospitality means the right of a stranger not to be treated as an enemy when he arrives in the land of another." He stresses that this should be a matter of right, not a question of philanthropy or good will. He then explains the foundations of this right of universal hospitality:

> Uninhabitable parts of the earth—the sea and the deserts—divide this community of all men, but the ship and the camel (the ship of the desert) enable them to approach each other across these unruled regions and to establish communication by using the common right to the face of the earth, which belongs to human beings generally...In this way distant parts of the world can come into peaceable relations with each other, and these are finally publicly established by law. Thus the human race can gradually be brought closer and closer to a constitution establishing world citizenship.

For all his idealism in other areas, Kant's political philosophy always shows a degree of realism. This realism can be seen in the following remark:

> But to this perfection [of a world citizenship based on the right of hospitality] compare the inhospitable actions of the civilized and especially of the commercial states of our part of the world. The injustice which they show to lands and peoples they visit (which is equivalent to conquering them) is carried by them to terrifying lengths. America, the

lands inhabited by the Negro, the Spice Islands, the Cape, etc., were at the time of their discovery considered by these civilized intruders as lands without owners, for they counted the inhabitants as nothing. In East India (Hindustan), under the pretense of establishing economic undertakings, they brought in foreign soldiers and used them to oppress the natives, excited widespread wars among the various states, spread famine, rebellion, perfidy, and the whole litany of evils which afflict mankind.

Kant would not deny reality, which was then and still is today so distant from the ideal of world citizenship and perpetual peace among the nations and their peoples. But to this problematic reality he opposed, in the concluding paragraph of his short treatise, a renewed idealism which summarizes his thoughts on the topic:

Since the narrower or wider community of the peoples of the earth has developed so far that a violation of rights in one place is felt throughout the world, the idea of a law of world citizenship is no high flown or exaggerated notion. It is a supplement to the unwritten code of the civil and international law, indispensable for the maintenance of the public human rights and hence also of perpetual peace. One cannot flatter oneself into believing one can approach this peace except under the condition outlined here.

This conclusion is quite telling, and it has not lost but rather gained strength over time, especially in view of the tragic events that have recently shocked the world. I refer to the serious terrorist attacks of September 11, and to the current response of the United States of America and its allies. In this sad and tragic chapter of human history, it is in my view particularly important not to lose sight of Kant's stimulating ideas that I have just referred to.

Over and again, one should compare these noble ideals and ideas uttered more than two centuries ago with reality. Kant referred to a particular kind of economic exploitation, but one can easily transpose his critique of world affairs to the current situation. The economic and social divide between rich and poor nations is growing ever wider.

And yet one cannot ignore the immense force which is at the foundation of the ideas of world citizenship. This force has found its way into reality by fits and starts, not as a fact but as a normative ideal. I will refer to a number of international instruments that draw on this ideal.

The Preamble to the Charter of the United Nations, signed on 26 June 1945, in San Francisco, which came into force on 24 October 1945, is the first such instrument that comes to mind.

In limpid language that echoes that of Kant, the "peoples of the United Nations" expressed the need "to save succeeding generations from the scourge of war," "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small," "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained," and "to promote social progress and better standards of life in larger freedom." To this end, the peoples of the United Nations proposed "to practice tolerance and live together in

peace with one another as good neighbors," "to unite our strength to maintain international peace and security," "to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples."

Other international instruments that come to mind are the Universal Declaration of Human Rights, adopted and proclaimed by the General Assembly of the United Nations on December 10, 1948, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of 1966. They are all moved by, and respond, to the same ideal.

All these international instruments are a reality that cannot be ignored. An ideal made reality, so to speak. And yet how feeble, how uncertain these words seem, how dependant on the good will of the nations and their peoples, how weak, finally, in relation to the absolute denial of all their principles that comes with global terrorism of any kind and, also, with a world of isolated and selfish nations which we do not really care for the problems of our neighbors.

Why do they remain feeble, weak instruments?

Perhaps because they are made of words. Noble and strong words, it cannot be denied, but words after all. And words that have little power over the fact that the nations are not so united, since they have retained sovereignty, and have not created stable structures, institutions and norms that would achieve Kant's world federation of free states. There are institutions and norms, like the United Nations and the international instruments I have just mentioned, but without the permanent transfer of a substantial part of the sovereignty of the states there is no perfect guarantee of perpetual peace and effective respect for human rights.

The global rule of law remains Utopian or imperfect, and will remain so until the states freely decide to pool their sovereignty in common institutions and norms.

Thus, the global rule of law remains Utopian or imperfect, and will remain so until the states freely decide to pool their sovereignty in common institutions and norms.

Likewise, a "global citizen" understood in ideal terms remains utopian as well, since citizenship, understood as the fact of being a member of a given polity, with the rights and obligations which are attached to it, is normally linked to the nation-state.

These imperfect norms and institutions that constitute the current world order are accompanied by many phenomena of regional integration. I will mention in this respect the NAFTA (North American Free Trade Area), Mercosur, ASEAN (Association of Southeast Asian Nations), and the European Union.

This latter organization is the one I know better, for obvious reasons, and I should like to say a word about it.

The European Union is the most advanced regional system of integration, more advanced than some of the others I've just mentioned, and in some aspects very similar to a federation. It touches upon all sorts of subjects: economic, social and political. It has its own currency, the euro, which in two months will be a physical reality and shortly after will replace the currencies of 12 of the Member States. It has its own fields of competence, which have been transferred on a permanent basis by the Member States at the different stages of European integration. And it has its own system of law.

Pierre Pescatore, a former judge at the European Court of Justice, memorably described this legal system as a "law of integration": a law which is, as he wrote, "qualitatively different from the classical international legal order." A law which is based on "a new type of relationship between States and their peoples." A law that has established "stable structures capable of standing up to the assault of crises and the erosion of time."[4]

Many aspects of the European Union are *sui generis*, unprecedented in the international sphere.

These institutional, normative and social structures are, indeed, still standing after several decades of existence. Many aspects of the European Union are *sui generis*, unprecedented in the international sphere. But the most specific feature is perhaps its law: a mature system of law which holds together the Member States and their peoples; a system which is suffused with principles of solidarity and common responsibility; a system of law characterized by a constant evolution and a creative dynamism, but also by stable structures that provide a degree of continuity in the integration process; a system, in sum, which has institutional and normative resources to improve and bring itself to completion.

The law of the European Union constitutes an independent and uniform body of law, applicable in all the Member States, relatively autonomous from, yet superior to, national law in case of conflict.[5] It is based on the founding treaties and the legislation adopted by the European institutions pursuant to those treaties.

The treaties provide the basic rules of the integration process: the constitutional aims, principles and norms to which the states have agreed and have to respect; the institutions and processes through which these principles may be developed. They have thus been described by the European Court as the constitutional charter of a Community based on the rule of law.[6]

Regarding legislation, the institutions of the European Union integrate as well as innovate, incorporating the policies of Member States and establishing new policies applicable to them. This system of primary and secondary norms resembles national law in many respects, but also presents its own very specific features, which are both structural and substantive.

From a structural point of view, European Union law is law in the strict sense of the word: it is law that applies to both States and individuals, beyond classical

international law, which established legal relations only between sovereign States.

From a substantive point of view, it is a law of freedom, economic and otherwise. A law that precludes the traditional selfishness of the States in the international environment, by limiting their sovereignty, and in part pooling it together, in the interest of all concerned. A law, moreover, that is based precisely on a specific concept of common interest, which is sought through the operation of supranational institutions. A law, finally, based on a common citizenship, and an established understanding of the relationships between the States and their peoples. Two norms, among many other fundamental provisions, epitomize these achievements.

The first is Article 12 of the founding treaty. This provision prohibits "any discrimination on grounds of nationality." It is thus very close to the principle of hospitality propounded by Kant in order to establish a world citizenship.

The second is Article 17, which establishes a "citizenship of the Union," a concept pregnant with many actual and potential legal consequences regarding the way in which many traditional rules of community law are interpreted and applied.[7]

I should like to recall in this connection that the Constitution of the United States of 1787 did not originally provide for a common citizenship. It only established, in Article IV, section 2, that "the Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States," a provision that closely resembles Article 12 of the Treaty of Rome. After the civil war, the 14th Amendment was added, providing that "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

Article 17 of the European Treaty does more or less the same thing. According to that article, citizenship of the Union belongs to every person who holds the nationality of a Member State. Citizenship of the Union, the provision adds, "shall complement and not replace national citizenship."

To put it in a simpler way: a composite citizenship which allows people to feel European while they also feel French or English or Spanish or Greek and so on.

Thus, even in the most advanced system of regional integration, citizenship remains inherently linked to the nation-states. This new, supranational citizenship is complementary, one may even say residuary, but it involves certain important rights: for instance, rights of movement and residence within the Member States; the right to vote and stand as a candidate in local and European elections all around the Union, and the right of diplomatic protection in the territory of a third country by the authorities of any Member State.

If one sees citizenship as a bundle of civil, political and social elements, as did T. H. Marshall in his seminal essay *Citizenship and Social Class* of 1950,[8] what we are witnessing nowadays in the European Union is a distribution of these elements

of citizenship, with different degrees of intensity, between the national and supranational levels. This distribution is producing a unique citizenship made of layers that transcends one-directional national allegiances and identities and transforms them into multidimensional ones. Or, to put it in a simpler way: a composite citizenship which allows people to feel European while they also feel French or English or Spanish or Greek and so on.

It may be interesting to compare this situation with what happened long ago in the United States: the 14th Amendment was designed to foster racial integration in American society, something that took much time and strife to achieve through political, and not only legal means. One has to admit, there are limits to what the law can do without a corresponding human will. The 14th Amendment was important, however, as the embodiment of an ideal and as the legal expression of a commonality. But it took some time to extract from this provision all its normative content.

It will also take some time to find all that the citizenship of the Union means in legal and extralegal terms. But its inclusion in the treaties already expresses something very important that one has to keep in mind when thinking about community law: that this system of law gives normative shape to the principles and values of a community of peoples, not simply of states.

The citizenship of the European Union is another building block for the Global Citizenship, and not simply a redefinition of identities, of circles of inclusion and exclusion, of us and them.

This system is still unfinished, and is on the move, as it were. In a few years' time the European Union may have a fully-fledged Constitution. This Constitution will most probably be drafted by a Convention after a deep constitutional debate, which in name and mandate will be comparable to that of the Philadelphia Convention that drafted the Constitution of the United States in 1787.

A convention of the same kind, composed of 15 representatives of the Heads of State and Government, 30 representatives of the national parliaments, 16 representatives of the European Parliament and one representative of the Commission, was already set up in December 1999 with the mandate to draft a Charter of Fundamental Rights of the European Union. The text of the Charter was solemnly proclaimed by the Presidents of the political institutions of the Union on December 7, 2000. Its concrete legal value is to be determined in the constitutional debate on the future of the Union to which I have referred.

Let me now come back to the main thrust of my address.

One would like to think that, to different extents and depending on their degrees of intensity, these processes of regional integration are building blocks towards a world order characterized by liberty, justice and the rule of law. One would like to think that they are not borders moved yet maintained, but that they are borders

quite simply removed. And, in the same vein, that the citizenship of the European Union is another building block for the Global Citizenship, and not simply a redefinition of identities, of circles of inclusion and exclusion, of us and them.

Much remains to be done, both at the regional and international levels. Work at the regional level should be accompanied by international activities of all sorts that may bring closer together the peoples of the world. In this connection, I should like to emphasize the Dialogue Among Civilizations project, launched earlier this year by the United Nations, and the Secretariat of which is at the School of Diplomacy and International Relations of Seton Hall University. Ambassador Constantinou has always been very keen on these topics. This project of the United Nations is indeed meant to develop a new model for international relations. That this model should be based on a dialogue, rather than on a reciprocal ignorance of civilizations or, worse, on a clash among them, is something that goes without saying.

Also in this connection I should like to refer to the Rome Statute of the International Criminal Court, of 17 July 1998. Its preamble emphasizes that "all peoples are united by common bonds, their cultures pieced together in a shared heritage," and expresses concern "that this delicate mosaic may be shattered at any time." In order "to guarantee lasting respect for and the enforcement of international justice," the States Parties to the Statute have agreed to establish an International Criminal Court. The projected Court would be "a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern." This Court would be most useful for cases of criminal activities that know no boundaries and can not be properly judged within state boundaries. Unfortunately, the statute has only been ratified so far by 43 out of the 60 signatory states which are needed for it to enter into force.

As I see it, therefore, regional integration builds blocks towards a new world order. International cooperation, simultaneously, builds bridges between these blocks, to prevent isolationism and the selfish attitudes of the nation-states and regional units.

Let me now address a final question.

Do the events of September 11, 2001, and what has followed, substantially change this scenario? Do they alter the prospects of peace among nations? Do they prevent the emergence of a global citizenship in a normative, ideal sense? Do they, as many have said and written, mark the beginning of a different kind of international relations?

As Professor Stanley Hoffmann has recently written, this would be "a misleading interpretation of a horrible event," for there is only a "change of scale and the location of the event," without really transforming world affairs.[9] World affairs have long been marked by interdependence and globalization, beyond the nation-state. Not only business and trade are global. Terrorism, drug cartels and other criminal activities are no less global. And they cannot be effectively dealt with at the traditional level of the nation-state. From this perspective, the tragic events of September 11 can be interpreted as a confirmation of a trend in the structure of world affairs that

dates from the end of the cold war. They call, to be sure, for an adequate response and effective justice. But they call no less, for a deep reflection on the current structure of the international community, in political, social and economic terms.

In this connexion, the United Nations Millennium Declaration, adopted in September 2000, proclaimed, "the central challenge we face today is to ensure that globalization becomes a positive force for all the world's people. For while globalization offers great opportunities, at present its benefits are very unevenly shared, while its costs are unevenly distributed."

My hope is that these recent tragic events should not throw us back into self-regard and self-seeking within narrow national boundaries but that they should give a new and wide-spread impetus to the generous ideals expressed by Immanuel Kant. To me, this spirit of openness and generosity is the only way forward in the world today. It is in that spirit that I am grateful for this opportunity to address you and am honored to be named Global Citizen.

Notes

[1] This is the text of an address delivered on 29 October 2001, at Seton Hall University, on the occasion of the Global Citizen Award. The oral style of the address has been maintained and some references have been added. The author would like to express his gratitude to Julio Baquero Cruz, référendaire at the European Court of Justice, for his valuable assistance.

[2] *Meditations*, VII, 9 (The communings with himself of Marcus Aurelius Antoninus, Emperor of Rome, together with his speeches and sayings, a revised text and a translation into English by C.R. Haines, Heinemann, 1930).

[3] In Kant's political writings (ed. H. Reiss, tr. by H. B. Nisbet, Cambridge University Press, 1970).

[4] P. Pescatore, *The Law of Integration: Emergence of a new Phenomenon in International Relations, Based on the Experience of the European Communities* (Sijthoff, Leiden, 1974), pp. 1-3.

[5] See Case 6/64, Costa v. E.N.E.L. [1964] ECR 585.

[6] See Case 294/83, Les Verts v. Parliament [1986] 1339; Opinion 1/91 (draft agreement relating to the creation of the European Economic Area) [1991] I-6079.

[7] See, in particular, Case C-184/99, Grzelczyk [2001] I-6193, par. 31: "Union citizenship is destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for."

[8] T. H. Marshall, *Citizenship and Social Class* (Pluto Press, London, 1992).

[9] S. Hoffmann, "On the War," *The New York Review of Books* (November 1, 2001).

Peacebuilding: The UN Playing a Constructive Role

Remarks by Ambassador Richard Williamson to the U.S.
Naval Staff College
New York, New York

August 22, 2002

    I appreciate having this opportunity to address the United States Naval Staff College. It is my understanding that you are military officers from 34 countries, all proven professionals-in-arms.

    At the United States Mission to the United Nations we take the work of our Military Staff Committee personnel very seriously. Their work is central to our Mission. The United States military officers at our Mission are important interlocutors with the UN Secretariat on violent flashpoints and armed conflicts worldwide. They provide information, perspective and advise on the entire range of military issues. As the United States Ambassador to the United Nations for Special Political Affairs, I rely upon their insights daily in carrying out my responsibilities in the UN Security Council.

    The United States supports efforts to improve all aspects of UN peacekeeping. With over 37,000 military members deployed in 15 United Nations peacekeeping missions, we want to ensure it's done safely, effectively, and efficiently. The United States Mission to the United Nations continuously seeks to reform and improve the structure and management of the UN in order to bolster its performance and credibility. The United States has welcomed efforts to improve UN peacekeeping such as the Brahimi Report,[1] works from the Peacekeeping Institute, at the U.S. Army War College,[2] and the recently published concluding report *Challenges of Peace Operations: Into the 21st Century.*[3]

    The UN provides a means by which the U.S. can pursue many of its national security objectives with greater international cooperation and engagement. Among

Ambassador Richard Williamson is the United States Alternate Representative to the United Nations for Special Political Affairs. Ambassador Williamson's previous government experience includes serving as a member of President Ronald Reagan's senior White House staff in the position of Assistant to the President for Intergovernmental Affairs; U.S. Ambassador to the United Nations offices in Vienna, Austria; Assistant Secretary of State for International Organizations and as a member of the President's General Advisory Committee on Arms Control.

these objectives, the U.S. Mission to the UN is in the forefront of the campaign to strengthen UN peacekeeping and to create strong regional capabilities to manage conflict.

To achieve this objective, it is important to understand the nature of peacekeeping operations. As Professor Steven Ratner has written, there has been a "sea of change in the nature and purposes of peacekeeping, one of the UN's most cherished inventions. Envisioned at its creation as a stop-gap measure to preserve a cease-fire between two hostile armies, peacekeeping has, since the end of the cold war, come to include something vastly different—the employment of UN operations to implement an agreed political solution to the underlying conflict between antagonists."[4]

Also, to strengthen UN peacekeeping operations, we must learn from ongoing missions; what works and what does not work and why. Therefore, I thought it might be useful if I share with you some of my observations about four peacekeeping operations.

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Ethiopia-Eritrea (UNMEE)

According to most experts, "Ethiopia's acceptance of Eritrea's independence, *de facto* in 1991, *de jure* in 1993, had resolved one of the major causes of regional instability and conflict in the Horn of Africa."[5] But events proved the experts were wrong.

In May 1998, a large-scale military conflict between Ethiopia and Eritrea over disputed border areas created devastation on military and civilian targets. After four weeks of intense fighting, hostilities ended. However, fighting flared again in February 1999. Soon 80,000 people had been killed. By the year 2000, both countries were exhausted and sought a way to achieve peace. The Algiers Peace Agreement, signed in December 2000, established a pathway to peace. It called for the UN to send a peacekeeping force to monitor a buffer zone to separate belligerent forces and monitor a cease-fire. Meanwhile, both countries agreed to abide by the decision of an independent Border Commission in The Hague which would consider agreed upon criteria and establish their national borders.

In its design, the UN Mission in Ethiopia-Eritrea (UNMEE) is a traditional peacekeeping mission. It was created as "a stop-gap measure to preserve a cease-fire between two hostile armies" while a political process worked to settle the dispute. Both hostile parties wanted to stop the carnage. Both agreed to call upon the UN to help guarantee the end of armed conflict. And both belligerents had signed onto a political process to resolve the issue in dispute.

In essence, the UN Peacekeeping Mission bought time while the International Border Commission in The Hague sorted out the dispute. The belligerents, who wanted to end the fighting in UNMEE, had a vehicle to provide confidence measures that the shooting war would end. In the Border Commission they had a third party to resolve the dispute which, inevitably, both Addis Ababa and Asmara could and would blame politically for failing to fully satisfy either country's territorial desires.

As we meet today, there has been to-ing and fro-ing. Both sides have huffed and puffed. But, the reality is that there has not been shooting as a result of violations of the buffer zone monitored by UN peacekeepers. The International Border Commission has rendered its decision on the border. Both sides profess unhappiness about this or that detail of the decision, both blame the Commission for alleged injustices, and both have accepted the new border. The large demining project to enable the setting of pillions for demarcation has begun and will be assisted substantially by UNMEE. And, barring some unforeseen development or gross miscalculation by one of the belligerents, the new border will be demarcated, refugees will return home, and UNMEE will be a success.

In this process UN peacekeepers made a valuable contribution to peace. But they did not impose a peaceful settlement on the Ethiopia/Eritrea war. They did not force either hostile party to do that which they did not want to do. Nonetheless, the UN peacekeepers were critical to the successful settlement of this needless and bloody war.

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SIERRA LEONE (UNAMSIL)

In March, 1991, a group of Sierra Leone dissidents, Liberians loyal to Charles Taylor and a few mercenaries, invaded eastern Sierra Leone. The next month Foday Sankoh and the RUF[6] claimed credit for starting the rebellion. That is how it began, the long cross-border and civil war that devastated Sierra Leone.

The UN's peacekeeping role in Sierra Leone was not a traditional operation. It was a post-cold war intervention. In Sierra Leone, the Security Council employed UN operations to implement a political solution to the underlying conflict between antagonists. And, at first, the UN failed.

In July 1998, the UN Security Council created the United Nations Mission in Sierra Leone (UNAMSIL). In its early years, UNAMSIL failed to quiet tensions and did not end the violence. The low point came in May 2000, when 700 UNAMSIL peacekeepers were captured and held hostage by rebels. But then events changed.

The emboldened RUF crossed the border into Guinea. They were met by a mightier force. The Guinea armed forces drove the RUF from their land and

followed the RUF back into Sierra Leone. The Guinea forces soundly defeated them. They broke the back of the RUF.

The decisive military victory over the RUF provided the conditions for a success story. And a coordinated international burden-sharing effort has helped realize success in Sierra Leone.

The international burden-sharing helped keep the political and security conditions in place that, in turn, kept the parties in the peace process.

From 2000, UNAMSIL[7] has had a robust mandate to protect itself and civilians against violence.[8] This allowed UNAMSIL to establish a secure environment throughout the country. No area was "off-limits" to UNAMSIL, which had overwhelming resources to carry out its task: 17,500 troops plus a civilian human rights, development and elections staff.[9]

In addition to a strong UN component, there was direct power intervention. The United Kingdom came to the assistance of Sierra Leone big time.[10] The British provided an additional military presence, as well as training to the Sierra Leone army. At one point, there was a British soldier with every single platoon of the Sierra Leone army helping train them to be disciplined, professional, effective soldiers. And the UK became Sierra Leone's largest provider of bilateral assistance.

Also, in Sierra Leone, there was a fully coordinated effort by the international community. For example, while the United Kingdom trained the Sierra Leone Army and police, the United States trained seven battalions of West African peacekeepers for participation in UNAMSIL. We also provided non-lethal military equipment to Guinea when it was attacked by the RUF from bases in Liberia and Sierra Leone.

Also, a broad range of tools was employed to help Sierra Leone. The United Nations Security Council imposed targeted economic sanctions against Liberian President Charles Taylor to get him to stop his support to the RUF.[11] Bilateral donors fund the large Disarmament, Demobilization, Reconciliation and Reintegration (DDRR) program to bring combatants in form the bush. And to end the cycle of violence and impunity that fueled Sierra Leone's civil war, the international community funds both a Truth and Reconciliation Commission and a Special Court to ensure accountability and to help bring some reconciliation to a land long victim to a savage civil war.

The international burden-sharing helped keep the political and security conditions in place that, in turn, kept the parties in the peace process. In Sierra Leone, neither side could win a military victory, but each side had the security umbrella provided by UNAMSIL. Cross-border support for the RUF rebels dried up. The combatants had an alternative, perhaps even an attractive alternative, to continued fighting in the DDRR program. And the United Nations had well-trained resources to draw upon to give UNAMSIL teeth.

As we meet today, Sierra Leone looks like a success story. Generally, the RUF rebels have disarmed and demobilized, and they seem to be reintegrating into society. Both the Special Court and the Truth and Reconciliation Commissions are up and operating. Hopefully, those who committed the worst crimes against humanity will be brought to justice. In May, free and fair elections were held. The government is working to project its reach and authority beyond Freetown into the countryside. In all these areas, the United Nations has made a major contribution.

However, Sierra Leone still has a long way to go. Its economy is in a desperate condition. The judicial system is plagued by corruption. And instability in neighboring Liberia threatens. Time will tell. But Sierra Leone has come a long way. And a strong United Nations role, a robust mandate for UNAMSIL, the great power intervention and continuing investment of Britain, and a fully coordinated international effort all contributed to the success thus far. UN peacekeeping played a significant role, but UN peacekeepers alone did not achieve this progress.

THE DEMOCRATIC REPUBLIC OF THE CONGO (**MONUC**)

The story of war in the Democratic Republic of the Congo, the DRC is desperately sad. In the past four years, nearly three million people in the Congo have died as a result of war and the consequences of war; disease and famine. Despite mineral riches and fertile ground, people starve to death in the Congo every day. It is a large country, nearly the landmass of Western Europe. Despite the active involvement by the international community, including the United Nations, a real lasting peace in the DRC, including elections, the removal of all foreign forces from the country, and restoration of DRC sovereignty remains a distant prospect. Why? Because the political will of the parties and conditions for peace are not there. In the DRC, no international burden-sharing nor UN effort can produce that political will or conditions for peace. The Congo is a dramatic example of the limits of UN power. The international community cannot build peace, if the parties do not have the will to make peace or the conditions are not in place to force the parties to agree to peace.

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A few weeks ago the DRC and Rwanda signed a peace agreement in Pretoria, South Africa. In it Rwanda commits to withdraw its troops from the eastern Congo, and the government in Kinshasa[12] agrees to stop supporting the so-called negative forces, the Ex-Far and Interhamwe,[13] and to turn over to the International Criminal Court in Rwanda the genicidiers now living in Kinshasa. Hopefully, this will provide a path to peace. Notably, the United Nations played no active role in brokering this agreement. The South African Government played that role. And the United States

applied significant bilateral pressure on the parties. But we should be cautious. There have been DRC peace agreements in the past, all of which have quickly fallen apart.

As I have already mentioned, the DRC covers a very large landmass. It has a population of approximately 52 million people. The DRC population is ethically diverse. After the horrendous genocide in Rwanda where 800,000 people were killed in a matter of months, the genecidiers were driven from Rwanda and settled in the eastern Congo.[14] This large influx of refugees was very destabilizing. Colonel Kagame, who led the Tutsi remnants of the Rwandan Army to successfully drive the Hutu genecidiers from his country, followed them all across the Congo to within a few miles from Kinshasa in the west. The DRC called for help from its neighbors. Angola, Zimbabwe and Namibia answered the call and sent troops to the DRC, and eventually drove the Rwandan Army back to the eastern Congo. For years now, the DRC has had foreign armed forces from each of these countries plus Uganda within its borders. Also, Rwanda and Uganda have had various proxy rebel groups that they have sponsored to advance their interests. Most of these foreign armed forces have extracted the rich resources of the Congo and sent much of that wealth home. Tens of thousands of armed men, conflicting interests fed by resource extraction, an enormous geographic area, all these elements have contributed to overwhelming the limited capacity of UN peacekeepers to bring peace and stability to the Congo.

In 1999, the warring parties in the DRC agreed to a "peace process" referred to as the Lusaka Framework.[15] It produced a cease-fire and an end to organized fighting. A UN observer force, MONUC,[16] has a limited mission to monitor cease-fire lines and plans for the eventual DDRRR[17] of rebel forces. The principle parties to the conflict—the Governments of Rwanda and the DRC, and the various rebel forces—have not been prepared to give MONUC a more robust security and disarmament mandate such as UNAMSIL has had in Sierra Leone. And, given the size of the DRC, MONUC is not a force that could be able to provide blanket security throughout the country.

In the DRC there has been no great power intervention. Neither former colonial power Belgium nor traditional patron France has seen a role on the ground for themselves. There is no great power military presence or training in the Congo. The French are engaged in significant diplomatic efforts, as is the United States, but no more.

Possible coordination of international efforts is difficult due to the complicated scenario in the DRC. There are a half-dozen countries with foreign forces in the Congo, even more domestic-based rebel forces, some of which are proxies for neighboring countries, and a general lack of clear "good hats" and "bad hats." The great powers have different interests and allies in the region. The international community's efforts are splintered among competing mediation efforts.[18] While the United States and other UN Security Council members work closely to bolster the parties' commitment to moving forward with the Lusaka Peace Process, the specifics are difficult because the parties disagree on approaches and tactics.

And, in the DRC, the UN Security Council has been unable to use all the tools at its disposal. Sanctions against the states supporting armed groups in the DRC are not appropriate at this time because they have legitimate security concerns that the DRC Government has been unwilling or is unable to address. The parties in conflict will not agree on the modalities of a DDRRR program, so the UN Security Council cannot use a DDRRR program to build momentum for an overall peace process. While the international community appears ready to support a democratic transition in the DRC with training and technical support once the fighting ends, no political agreement on a transition has been reached.

For now, the DRC has demonstrated that the international community cannot build peace, including through the use of UN peacekeepers, in a large scale, complex conflict if the parties do not have the will to make peace. In Sierra Leone, the conditions were there. In Sierra Leone an integrated, coordinated burden-sharing approach kept the parties feet to the fire. In the Congo, so far, the conflicted parties have not demonstrated a commitment to peace and the conditions are not in place to force them to a peace process. The ongoing tragedy in the Great Lakes Region is that without that, no UN peacekeeping force nor great power intervention can make it happen.[19]

In Sierra Leone an integrated, coordinated burden-sharing approach kept the parties feet to the fire.

If the parties to the DRC do take the right steps, then the United Stares and the international community will have to be prepared to respond with an international burden-sharing approach with all the components used in Sierra Leone to bolster those steps. The United States will need to work multilaterally to put that burden-sharing coalition together. And, quite possibly, the United Nations will prove the best mechanism to make that happen.

AFGHANISTAN (UNAMA)

Following the evil terrorist attacks on America on September 11, 2001, the United Nations sanctioned military action against the Taliban regime in Kabul.[20] Soon thereafter, the United States led a coalition against the Taliban regime and quickly brought it down.[21] Now, the international community is engaged in a process to rebuild Afghanistan so that the Afghan people can govern themselves and so that their country can know a sustainable peace. As President Bush has said, "We know that true peace will only be achieved when we give the Afghan people the means to achieve their own aspirations. Peace will be achieved by helping Afghanistan train and develop its own national army. And peace will be achieved through an education system for boys and girls which works."[22]

In Afghanistan, a great deal has been accomplished, but it is too early to call it a success story. The Loya Jirga process went very well. For the first time a free and

fair elections process took place in Afghanistan that was transparent and in which women played a major role.[23] There has been a peaceful transition to a Transitional Authority under President Hamid Karzai. There are many serious challenges ahead, but the outlook is positive.

As President Bush has said, "We know that true peace will only be achieved when we give the Afghan people the means to achieve their own aspirations."

One crucial reason that the outlook is positive is that most Afghans are committed to success. After the long Soviet occupation in the 1980's and the Taliban reign of terror in the 1990's, there is a strong desire for "normalcy." For two decades the toll on the Afghan people was tragic, with an entire generation growing up in refugee camps and as internally displaced persons. In addition to the willingness of the Afghan people to embrace a new regime, as in Sierra Leone, there has been a coordinated international burden-sharing effort in Afghanistan. This effort, also as in Sierra Leone, has included a strong United Nations component, direct great power intervention, and the international community's willingness to use a range of military, economic and legal tools to build peace.

In Afghanistan, the United Nations does not have a UNAMSIL or other blue helmet operation. The United Nations is a political mission that has played a major role in providing political stability to the Afghan Interim Authority and in developing the capacity for a government to begin to function again. UNAMA may not have troops, but it has a civilian human rights and election monitoring group. And, in essence, UNAMA has been charged with making sure that the Bonn Agreement is implemented.[24]

In Afghanistan, the United States has provided the Great Power Intervention. Operation Enduring Freedom has fundamentally reshaped the Afghan political landscape by bringing down the Taliban regime and by hunting down al Qaeda. While there may be anti-American sentiment in some quarters, more generally there is gratitude to Americans for getting rid of the Taliban. Coalition forces continue to provide a visible and effective presence. As the British did in Sierra Leone, the United States is training an Afghan army.

In Afghanistan, the fully coordinated international effort has resulted in different countries taking the lead in different areas. As I already have said, the U.S. is taking the lead in training the national army with support from the French. The Germans are recruiting and training an Afghan police force. The United Kingdom is coordinating counter-narcotics efforts. The European Union, and in particular the Italians, are the lead in developing the rule of law and developing a judicial system. The Japanese have stepped up to the plate on quick-impact economic and reconstruction projects. The Chinese are contributing medical supplies and military uniforms. The UN is developing and implementing a comprehensive DDR plane.

And the list goes on. Many, many nations are helping this effort and Ambassador Brahimi, the UN Secretary-General's Special Representative in Afghanistan is helping ensure that these programs are well coordinated, reinforce one another, and stay on track.

Like in Sierra Leone, a strong UN component, direct great power intervention, a fully coordinated international effort using all the tools are bringing success to Afghanistan. But there is a long way to go. And there are a number of factors that could derail this progress from a possible India/Pakistan conflict to an unforeseen natural phenomenon such as drought or earthquakes. But the signs are positive. And following the successful Loya Jirga in June, the independent Afghanistan Interim Authority is helping the new political process to take root.

Conclusion

Reflecting on these examples, perhaps we can draw some tentative conclusions. Generally, the United Nations capacity to make peace is limited.[25] The UN cannot impose its solution onto a war situation. It cannot dictate a peace onto warring parties. This is especially true in a large and/or complex conflict. However, if some combination of soldiers, diplomats, politicians and civil society succeed in creating the opportunity for peace, the United Nations can be an instrument to see it through.[26]

Soldiers, military might, can change the dynamic of a conflict by acting as a deterrent, changing the military status-quo, or changing the military calculations of possible victory. The United Kingdom did this in Sierra Leone as did the United States in Afghanistan. Are UN peacekeepers alone incapable of responding robustly enough to make peace? Probably.

If the military situation shifts due to events on the ground or the threat of outside intervention, diplomats often can succeed in brokering a peace deal. Threats of wrath from the international community or imposing sanctions[27] can help change the dynamic to give peace a chance. Politicians responding to growing discontent of their people, occasionally voiced through elections, or taking account of a military assessment that victory is not possible,[28] sometimes are forced to give peace a chance.

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When these situations are created, the United Nations can help preserve the opportunity. Through relatively inactive (but robust) UN peacekeepers the UN can help prevent slippage. In Sierra Leone this has been a combination of monitoring and enforcing the terms of the peace agreement. The United Nations can help disarm combatants as it has done in Sierra Leone, El Salvador,[29] Eastern Slavonia,[30] and as planned for in the Democratic Republic of the Congo. The United Nations

can provide temporary civil administration while creating conditions for a long-term, stable, sustainable, independent country. Examples of this would include East Timor and Kosovo.

The United Nations can help peace take root by showing former combatants the attractiveness of the alternatives to fighting and thereby strengthen the voices of peace.

The United Nations can provide a face-saving way out for the loser who can hand over the administration of a country to a "neutral" party. For example, it would have been very difficult for Indonesia to relinquish power in East Timor immediately to an East Timorese, especially not to Xanana Gusmao, whom they had just released from prison.[31] The United Nations can help peace take root by showing former combatants the attractiveness of the alternatives to fighting and thereby strengthen the voices of peace. This is another side of DDRR programs. The International communities' quick inflow of development projects, often through the UN, help provide "benefits of peace." This has happened in Bosnia, East Timor, Afghanistan and elsewhere.

The two or more sides of any conflict mistrust each other. The longer and bloodier the war, the greater the mistrust. They often need an honest broker. The United Nations often plays this role.[32]

A great deal of the work at the United States Mission to the United Nations is assessing the ripeness of a conflict for resolution, trying to use bilateral and multilateral tools at our disposal to move unripe situations to fruition.[33] Once a situation is ripe for resolution, there are many ways the United Nations can play a constructive role. But we need to be realistic and smart about what we ask the UN to do.

Notes

[1] Report of the Panel on United Nations Peace Operations (A/55/305-5/2000/809) August 2000.

[2] For example, Chris Seiple, The U.S. Military/NGO Relationship in Humanitarian Interventions (Peacekeeping Institute/CSL, Carlisle, Pennsylvania, 1996), ed. Karen U. Kwiatkowski, African Crisis Response Initiative (ACRI) Past, Present, and Future (Peacekeeping Institute /CSL, Carlisle, Pennsylvania, 2000.)

[3] The Challenges Project, the Swedish National Defense College and Challenges Project Partner Organizations (Elanders Gotab, Stockholm, 2002).

[4] Steven R. Ratner, The New UN Peacekeeping: Building Peace in Lands of Conflict After the Cold War (St. Martin's Press, New York, 1995) p. 1.

[5] For an excellent discussion of the causes and impact of this conflict see Tekeste Negash and Kjetil Tronvoll, Brothers at War: Making Sense of the Eritrean-Ethiopian War (Ohio University Press, Athens, Ohio, 2000.)

[6] The Revolutionary United Front.

[7] The United Nations Mission in Sierra Leone.

[8] UNSCR 1346, paragraph 3. S/Res/1346(2001).

[9] Disarmament, Demobilization, Repatriation, Reintegration and Reconciliation.

[10] There was an effort by the Organization for African Unity to mediate peace in 1998-1999. In 1999-2000, South Africa attempted to mediate an internal agreement in the DRC. At present, Secretary-

General Kofi Annan has appointed a Special Envoy to facilitate direct, all-inclusive negotiations on a transitional government in the DRC. Parallel to this, the Facilitator of the Inter-Congolese Dialogue, Sir Kenneth Masire, remains in place to move the Dialogue forward as well.

[11] For an interesting discussion of why only a distinctly African approach to African problems can succeed, see Peter Schwab, *Africa: A Continent Self-Destructs* (New York, New York, St. Martin's Press, 2001).

[12] UNSCR 1368(2001) condemned the World Trade Center attacks and recognized the right of Member States to individual or collective self-defense. When the United States launched Operation Enduring Freedom, we sent an Article 51 notification to the UN informing them that the U.S. was exercising its right to self-defense.

[13] The United States launched Operation Enduring Freedom on October 7, 2001. Kabul fell on November 13, 2002.

[14] President George W. Bush remarks to the George C. Marshall ROTC Award Seminar on National Security, Virginia Military Institute, Lexington, Virginia, April 17, 2002.

[15] Report of the Secretary-General, "The Situation in Afghanistan and its Implications for International Peace and Security," A/56/1000-S/200/737, July 11, 2002.

[16] The "Bonn Agreement" was the agreement reached in Bonn, Germany, between all the various elements of the Afghan leadership, exclusive of the Taliban, which charted the roadmap for the post-Taliban Afghanistan state. It affirmed a commitment to develop a gender-sensitive, ethnically balanced, human rights respectful state, and sets out the establishment of four commissions to help guide that development: constitutional, human rights, civil service, and judicial. It also established an Interim Authority for Afghanistan which would (and did) give way to a Transitional Authority selected by the process of the Emergency Loya Jirga. Finally, the Bonn Agreement mandated a Constitutional Loya Jirga within 18 months of the Transitional Authority's establishment.

[17] For an interesting discussion of the elements in peacemaking, see Charles W. Kegley, Jr. and Gregory A. Raymond, *How Nations Make Peace* (New York, New York, St. Martin's Press, 1999).

[18] Some good reading on the UN's peacekeeping track record and ability includes, John Hillen, *Blue Helmets: The Strategy of UN Military Operations* (Washington, D.C., Brassey's, 1998), Dennis C. Jett *Why Peacekeeping Fails* (New York, New York, St. Martin's Press, 1999), A. Fetherston, *Towards a Theory of United Nations Peacekeeping* (New York, New York, St. Martin's Press, 1994), Donald C.F. Daniel and Bradd C. Hayes, eds, *Beyond Traditional Peacekeeping* (New York, New York, St. Martin's Press, 1995), Edward C. Luck, *Mixed Messages: American Politics and International Organization 1919-1999* (Washington, D.C., Brookings Institution Press, 1999) pp. 133-95, and Sarah B. Sewall, *Multilateralism and U.S. Foreign Policy: Ambivalent Engagement* (Boulder, Colorado, Lynne Rienner Publishers, 2002) p. 191-224. See also, David Halberstam, *War In A Time of Peace: Bush, Clinton, and the Generals* (New York, New York; Scribner; 2001). See also, ed. John Norton Moore and Alex Morrison, *Strengthening the United Nations and Enhancing War Prevention* (Durham, North Carolina; Carolina Academic Press; 2000).

[19] International sanctions may be as simple as political isolation, but usually must hit commercial interests in order to be effective.

[20] El Salvador is an example of the first while Croatia and Indonesia are examples of the second.

[21] ONUSAL participated in the oversight of disbanding paramilitary units, the reform of the military and creation of a new police service that included ex-guerrillas.

[22] In UNTAES, weapons were bought back from Serbs before the area was reintegrated with Croatia.

[23] Note that ex-rebel leader Xanana Gusmao was elected the first President of the newly independent East Timor during the UN's interim administration.

[24] Often one party is significantly weaker than the other and the "broker" becomes an advocate for that side. The UN Electoral Mission in East Timor (UNAMET) preceding the popular consultation is an example. Some argue this is what UNMIK should be doing in Kosovo. This also is what UNAMA is doing in working to de-conflict regional power plays in Afghanistan.

[25] The concept of "ripeness" was developed by I. William Zartman. It comes from "ripe for resolution", i.e., that point at which the parties perceive the costs and prospects of continued confrontation to be more burdensome than the costs and prospects of a solution.

Detritus of Conflict: The U.S. Approach to the Humanitarian Problem Posed by Landmines and other Hazardous Remnants of War

by Lincoln P. Bloomfield, Jr.

Landmines as we know them today—victim-activated explosive devices—have been around since at least our own Civil War. Indeed, five potent landmines, or, as they were originally called, "land torpedoes," from that war were found near Mobile, Alabama in the 1960s.[1] The fact that these devices were still dangerous a century after the war had ended demonstrates so well the challenges in addressing the legacy of landmines and other still potent explosive remnants from past wars in every hemisphere.

Narrowly defined, humanitarian mine action consists of landmine clearance and the clearance of unexploded ordnance (UXO), mine risk education for people in areas infested by landmines, assistance to survivors of landmine and UXO accidents, and research and development into new clearance technologies.

But humanitarian mine action is not about landmines as much as it is about the effects that these "hidden killers" have on the lives and livelihoods of innocent people. They are being shattered by devices like the "land torpedoes," left behind in more than 60 nations[2] around the world from wars past. Humanitarian mine action can and should be about more than just clearing mines and other explosive remnants of war such as unexploded bombs, artillery and mortar shells, rockets and grenades. Also, mine action efforts can and should play a vital role in furthering peace and stability. Cleared lands provide a physical environment that allows for national reconciliation, stability and economic development. Indeed, in addressing the horrific legacy of landmines and UXO, we are not only helping to secure innocents from harm and restore land to productivity, we also are providing something essential for communities ravaged by war: hope. Mine action encourages hope that the future can be better than the past and hope that patterns of war and violence can be replaced with patterns of peace and prosperity.

U.S. MINE ACTION: EARLY, CONSTANT AND MATURING

The first mine clearance programs began taking shape in Afghanistan[3] and Cambodia, from the late 1980s through the early 1990s, respectively. These fledgling

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efforts laid the foundation for a worldwide movement that has since galvanized international opinion and support, and mobilized significant financial resources to address the harm caused by the indiscriminate use of persistent landmines. The United States Government helped to fund these first demining efforts and has remained the largest contributor to mine action ever since.

Humanitarian mine action is not about landmines as much as it is about the effects that these "hidden killers" have on the lives and livelihoods of innocent people.

The U.S. Government has been a pioneer and steadfast supporter of mine action, helping where it can by providing financial support to and training for mine risk education initiatives and clearance efforts. The U.S., furthermore, has also assisted in the investigation of new detection and clearance technologies, the development of indigenous mine action capacities and the formation of a wide array of public-private partnerships. The aim of these partnerships has been to reinforce the official mine action programs of the United States, other donor nations, the United Nations, and the Organization of American States.

In 1993, the U.S. made the response to the landmine crisis a priority and organized its previously ad-hoc efforts into the formal U.S. Humanitarian Mine Action Program.[4] Since then, the U.S. Government has spent about $700 million to support mine action efforts in forty-five countries.

The United States has also been and remains a consistent advocate for the first international landmine treaty: the Amended Mines Protocol to the Convention on Certain Conventional Weapons,[5] which governs the use of not only anti-personnel landmines, but also anti-vehicle mines, improvised explosive devices and booby traps. As far back as 1980, the United States took the lead in getting this Convention to consider regulating the use of persistent landmines worldwide. In 1998, the U.S.-drafted Amendment entered into force and was ratified by the United States in May 1999.

During the 1990's, the U.S. took other tangible unilateral steps to address the global landmine problem, including:

- 1992: Implemented a unilateral ban on the export of anti-personnel landmines.[6]
- 1996: Initiated the removal of U.S. landmines from the perimeter of the U.S. Naval Base in Guantanamo, Cuba, the last static U.S.-controlled minefield in the world. Clearance was completed in 1999 and quality assurance was completed in 2000.
- 1997: Ceased production of persistent landmines.
- 1997: The President designated a senior U.S. Government official as his Special Representative for Mine Action and established offices in the State Department to focus on mine action assistance and partnerships.

· 1998: Completed the unilateral destruction of 3.3 million of its non-self-destructing landmines, retaining only enough for training, research and development, and the defense of South Korea.

In 2001, the U.S. established the world's first Quick Reaction Demining Force to help strengthen cease-fires and peace settlements rapidly around the globe, and thereby hasten the return of internally displaced persons and refugees and the movement of relief supplies. The U.S. also supported the Government of Slovenia's International Trust Fund for Demining and Mine Victims' Assistance, through whose efforts $20 million in donated funds were used to solicit matching grants and underwrite about $70 million in mine action programs throughout the Balkan states. Moreover, the State Department has significantly increased its effort, since 2001, to encourage private efforts in conjunction with official donor efforts worldwide.

Impressive as the collective accomplishments of the U.S. Government, the private sector, and other donor governments have been, for over 14 years, they still do not provide a full response to the enormous tasks that remain. The effort to make the world "mine safe" is worthy but the resources to realize it are limited. Therefore, we must regularly review the effectiveness of our work and identify the most efficient ways to realize our vision for the future of mine action.

These accomplishments have been brought about by a truly international, collective effort of mine-affected countries, donor nations, non-governmental organizations, private corporations and concerned individuals.

REVIEWING THE EFFECTIVENESS OF OUR WORK

An old adage says: "We achieve what we measure, so we had better measure what we want to achieve." This is particularly true in mine action. We must mark our progress in the areas that have the most meaning and base this progress, as much as possible, on reliable indicators and sound data.

By any measure, international mine action efforts have achieved a great deal to date. A short review of these accomplishments is in order. They include:

· The development of a range of technologies to enhance a deminer's "toolbox". For example, mine detecting dogs and their trained human handlers have been pioneered and put into use, resulting in dramatic increases in both productivity and safety of demining operations.
· The development and adoption of a refined set of international standards and protocols addressing all aspects of mine action.
· The clearance of thousands of square kilometers of land through assistance provided to nearly sixty countries.
· The removal of millions of dangerous persistent mines.

· A reported decline in the number of victims per year from landmines, from 26,000 to less than half that amount.[7]
· Since 2000, a reduction in the estimated number of mines going into the ground, compared with the estimated number of those removed. [8]

These accomplishments have been brought about by a truly international, collective effort of mine-affected countries, donor nations, non-governmental organizations, private corporations and concerned individuals.

When the United States first engaged in humanitarian demining, performance was measured almost exclusively by reference to the number of mines removed. While this may be a good indicator of clearance efficiencies, it is not an adequate indicator of the overall contributions that a program is making toward reducing the harmful impact of landmines and UXO to civilians. Similarly, counting the number of people who attend a mine risk education course does not tell us how effective that course will be in minimizing risky behaviors.

Fortunately, other performance measures have been identified that are more useful in assessing progress, such as casualty figures and area of land cleared. But we can do even better. Donor resources are not infinite and donor fatigue is a real concern in a world with competing demands. It is essential that mine action practitioners adopt even more meaningful measures of performance. Therefore inputs—meaning both funding and effort—should be definitively linked to specific social and economic outputs, such as increased food production, restored roads, decreased casualty rates and enhanced livelihoods.

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For donor resources to be most effective, countries affected by landmines and other explosive remnants of war, working with donors, must establish sound national strategic plans that focus efforts where the need is the greatest. The goal should be to balance risk with resources and make the most of the funds provided. These plans should outline an intended "end state" for international assistance to the country, where the most acute threats are to be removed immediately in priority order, with less pressing requirements addressed once the country has an indigenous, self-sustaining program in place. For example, the results from Landmine Impact Surveys conducted in Chad and Yemen,[9] in recent years, clearly indicate that the most dangerous and pressing clearance needs, those lands that posed the greatest risk of causing casualties and the most economic harm, amounted to only a small fraction of total contaminated area. All country programs should similarly define and prioritize their problems and put into effect realistic, output-oriented plans for liberating their lands and protecting their people.

We also must demand that affected countries wholeheartedly adopt mine action as a national priority, integrating it into other development programs. One aspect of U.S. Government mine action efforts has been to help host governments develop self-sustaining demining programs so that we can gradually redirect our assistance to other needy mine-affected nations. Therefore, the United States calls upon host governments to take an even greater share of responsibility for their national mine action programs. This entails not only allocating more of their own resources for mine action, but also assuming effective overall program direction and management.

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BROADENING THE VISION AND IMPACT OF OUR EFFORTS

Mine action must be more than the sum of its parts: Mine and UXO clearance, survivors' assistance, mine risk education, and research and development into new detection and clearance technologies. Mine action, rather, should be expanded to encompass remediation of all hazardous and explosive remnants of war, including any abandoned persistent munitions, with the aim of serving the broader objectives of post-conflict reconstruction and national reconciliation. Large concentrations of mines and other explosive residue from war exacerbate the social conditions within affected countries that can lead to lawlessness, repression, anarchy, or extremism. In mine-affected developing countries, conditions such as hunger, poverty and economic deprivation can be made worse by the uncontrolled violence that results from widespread mine and UXO contamination. Demobilized soldiers and poorly disciplined militias with large amounts of small arms and other light weapons can undermine stability and rule of law. Our policy approaches seek to control these flows and to assist in securing stored weapons for legitimate governmental purposes where a risk of diversion exists.

Furthermore, efforts must be expanded beyond 'clean-up' of landmines and UXO, to more fully integrate mine action writ large, as an institution, into a comprehensive response to adverse social and economic conditions. The effect of our limited resources should be amplified by targeting them to the neediest of communities, to heal the physical and psychological wounds of war and help create an environment conducive to economic opportunity. Post-conflict communities whose inhabitants can grow their own food and transport their goods to market, whose young men have options other than soldiering, and whose children can walk to school in safety, have the basic building blocks of stable societies.

When viewed in this larger context of fostering a more peaceful environment in conflict-prone areas, mine action is no longer an end- in- itself. Its success, rather, can and must be measured by its contributions to reconstruction, rehabilitation,

reconciliation and development. Part of this contribution involves the development of indigenous program management capacity backed by the political commitment of mine-affected country leadership to assume primary responsibility for the effort.

Sadly, the current body of international mine action "experts" running national programs is too large and unwieldy. And, although it is widely recognized that fully indigenized programs are a key indicator of success, there are too few examples of self-sustaining programs operated and managed by the affected countries. Therefore, in order to broaden the potential impact of our efforts, we must seek a gradual reduction in the number of expatriates working in mine action, as well as a corresponding increase in the rate of transfer of knowledge and responsibility to indigenous mine action authorities.

In order to broaden the potential impact of our efforts, we must seek a gradual reduction in the number of expatriates working in mine action, as well as a corresponding increase in the rate of transfer of knowledge and responsibility to indigenous mine action authorities.

The mine detection dog program in Afghanistan is a good example of how the process of developing indigenous capacity could work elsewhere. Beginning in the late 1980's, U.S. and foreign contractors provided the first teams of dogs as well as extensive training and veterinary support. Over time, Afghans working in the Afghan Mine Dog Center, or MDC, took on more and more of the functions formerly performed by expatriates.[10]

Today, the MDC is one of the largest users of mine dogs in the world. Its more than 160 working dogs represent approximately twenty percent of the world's capacity, and it is able to sustain them with MDC's own breeding and veterinary programs. MDC is run and managed by Afghans with only limited outside technical assistance.

The international mine action community must intensify collaboration in developing a clear set of agreed, measurable objectives to guide our future efforts. In Kosovo, the most pressing mine threats were neutralized within a very few years, not decades, and provided a residual capacity to deal with any lingering hazards. That battle-scarred province was declared "mine safe" in 2001.[11] Such a scenario should be the rule, not the exception.

Specifically, I would like to see an aggressive international mine action agenda, in the coming years, that boasts the following objectives:

·   5 or 6 more countries are declared "mine-safe" by 2005.
·   The 5 most mine-affected countries, in terms of risk to civilians and harm to post-conflict recovery, are the focus of intensified and coordinated international effort.
·   All countries receiving U.S. and other donor nation assistance for more than three years establish a strategic national plan, including indigenous

  capacity-building, that has clearly defined outputs and an achievable end-state.

· The International Testing and Evaluation Program (ITEP), in which the U.S., the European Commission, Belgium, Canada, the United Kingdom, the Netherlands and Sweden are attempting to harmonize and rationalize their research and development in mine detection and clearance, is well supported and coordinated with other testing programs.[12]

· The funding base for mine action is both increased and diversified, with amounts from private sources substantially increased annually for the next five years.

· A measurable program is agreed among active mine action entities aimed at reduction in expatriate staff within each mine-affected country from today's levels, eventually leading to a situation where programs are led and staffed almost entirely by nationals of the country.

· Landmine Impact Surveys are conducted in 20 of the most heavily contaminated countries by 2005.

A renewed vision for mine action suggests that, as we strive to achieve a world safe from mines, UXO and other detritus of war, we do so in a manner that maintains the broader objectives relating to recovery and development. Our efforts should contribute to the processes of reconciliation and recovery and, where appropriate, the international community's efforts should be translated into useful indigenous capacity. Affected countries would then be in a position to manage and allocate their own capabilities over the longer term, as needed.

All countries receiving U.S. and other donor nation assistance for more than three years establish a strategic national plan, including indigenous capacity-building, that has clearly defined outputs and an achievable end-state.

ACHIEVING RENEWAL THROUGH CREATIVITY AND COOPERATION

Serious pursuit of this vision of a world far less plagued by the entire gamut of explosive remnants of war is a function not only of resources. It also involves tapping the immense pool of creativity that exists within the international community, including governments and international organizations, but prominently including private parties, be they NGOs, universities, business enterprises, or committed individuals.

The United States Government is going to continue to be a major financial supporter of mine action programs well into the foreseeable future. In Fiscal Year 2003, for example, we will provide an aggregate $101 million to over 40 countries.

In 2002, an innovative joint U.S.-Mozambican Quick Reaction Demining Force (QRDF) deployed to Sri Lanka[13] immediately upon the cease-fire there to clear landmines and enable internally displaced persons to return to their homes and livelihoods safely, thereby reinforcing the peace process. The QRDF was similarly dispatched to Sudan's Nuba region in 2002, to clear critical roadways in support of other humanitarian objectives and the peace process ongoing in Switzerland. Events in Angola[14] will hopefully permit us to increase our already substantial mine action activities there, particularly to areas previously cut off by conflict.

The United States supports mine clearance, survivors' assistance, mine risk education, and projects designed specifically to improve program planning and management skills, such as Impact Surveys and accredited training for senior and mid-level mine action managers in affected countries. The U.S. also supports a variety of research and development efforts into new technologies to detect and clear landmines more efficiently. While progress around the world is being made, the reckless use of persistent landmines has not ended, and some of today's hostilities are likely to become tomorrow's burden for major mine action donors, including the U.S. The U.S. Government is very likely to remain a leader in mine action, and its contribution to the effort will be most effective if its activities are part of a well-conceived international program of action.

For its part, the entire mine action community must work together to ensure that our collective efforts are complementary and our aims compatible. Cooperative funding initiatives, such as the aforementioned International Trust Fund for Demining and Mine Victims Assistance (ITF)[15] based in Slovenia, whose mandate covers the Balkans and has recently expanded to the Caucasus as well, offer a model for how resources can be pooled to maximize the benefit of donated funds. By establishing a matching grant system, the U.S. has worked with 29 other donors to mobilize over $100 million to support mine action in the Balkans. The United States is also working closely with the European Union to coordinate our information management, geographic information systems (GIS) and Impact Survey efforts.

PROMOTING PUBLIC-PRIVATE PARTNERSHIPS TO REINFORCE MINE ACTION

In seeking to expand the base of mine action support beyond that provided by governments, the U.S. has increasingly recognized the vital role that individual citizens, civic and religious associations, non-governmental organizations, charities and corporations can play in helping to address the harmful effects caused by persistent landmines.

To date, the U.S. Department of State has cultivated nearly thirty public-private partnerships with individuals and organizations that have reinforced mine action efforts worldwide.[16] Their contributions have already made a difference, and are increasing. They deserve a share of the credit for what has been achieved to date. We have a growing list of projects and partners that are engaged in some form of mine action. These initiatives range from physical and psychological rehabilitation

for survivors of mine accidents and mine risk education for those who live in mine-infested areas, to direct support for mine clearance efforts. We welcome new, energetic and innovative groups and individuals to participate in our public-private partnership network.

The U.S. Department of State has cultivated nearly thirty public-private partnerships with individuals and organizations that have reinforced mine action efforts worldwide.

RELATING MINE ACTION TO POLICY

The United States Government is currently conducting a landmine policy review. While it is premature to speculate on the specifics of a policy under deliberation, this review has paid close attention to the humanitarian dimension, as described in this essay, and to the national security dimension, given the wide-ranging tasks presently being assigned around the world to the U.S. military. This review, being conducted by the National Security Council, the Department of Defense, and the Department of State, has included a substantive evaluation of positions from a wide range of individuals and non-governmental organizations with expertise in this area.

As the world's largest donor to mine action efforts, the U.S. is acutely attuned to the types of munitions and military or paramilitary practices that have created the humanitarian crisis in recent years. These insights will inform the policy review, guided by the conviction that, mine action goals should neither be seen as an either-or proposition with national security, nor suffer any loss of support due to different perspectives in the realm of policy. The innocent civilians at risk today from live landmines hidden in their midst deserve and should receive our full and unqualified support.

THE PATH AHEAD

The future of mine action and the complementary efforts to protect civilians from mines and other explosive remnants of war should be dynamic and fruitful. A great deal has been learned since the inception of humanitarian demining just over a decade ago. This accumulated body of knowledge will serve the world well in the future. The U.S. Government, governments of donor and mine-affected nations, international organizations, and the private sector, together have created a formidable international network of humanitarian mine action. Now we must set our sights higher and apply the financial and human capital at our disposal to help war-ravaged communities restore stable societies. Working together, we can realistically set our sights on achieving a world all of whose children may walk the earth in safety.

Notes

1 "Milestones in Humanitarian Demining: Development of the Landmine Threat and the Discipline of Humanitarian Demining," U.S. Dept. of State Fact Sheet, April 15, 2002. A copy of these Milestones has been reproduced within the Appendix to this essay. The Milestones provide a brief overview of the historic development of the global landmine problem, and also outline the key steps taken over the years, both legal and programmatic, to mitigate it. (See, also: http://www.state.gov/t/pm/rls/fs/2002/ 8512.htm.)

2 "To Walk the Earth In Safety: The United States Commitment to Humanitarian Demining," U.S. Department of State, Bureau of Political-Military Affairs Annual Report, 3rd Edition, November 2001, page A-50.

3 "The U.S. Humanitarian Demining Program in Afghanistan," U.S. Dept. of State Fact Sheet, December 1, 2001.

4 "Milestones in Humanitarian Demining."

5 See http://www.ccwtreaty.com/amendedmineprotocol.htm.

6 "Milestones in Humanitarian Demining."

7 "To Walk the Earth In Safety," 3rd Edition, November 2001, page A-50.

8 Ibid.

9 "Successful Completion of First Landmine Impact Survey in Yemen," U.S. Dept. of State Media Note, October 4, 2000.

10 "Returning Mine-Free Land to the Afghani People: Afghanistan Mine Detection and Dog Center," by Susanna Sprinkel, Journal of Mine Action, Mine Action Information Center, Issue 5.3, Fall 2001, pp. 101-103. See also "Afghan's Best Friend: Mine Clearing Dogs," by Margaret Coker, Atlanta Journal and Constitution, January 20, 2002, page 15.

11 "The Kosovo MACC: The Most Succssful Mine Action Program Ever, " by J.J. Scott, Journal of Mine Action, Mine Action Information Center, Issue 6.1, Winter 2002, pp. 26 - 32.

12 "U.S. Signs Agreement for International Test and Evaluation Program for Humanitarian Demining", U.S. Dept. of State Media Note, July 17, 2000.

13 Milestones in Humanitarian Demining.

14 "Lusaka Protocol End Marks Start of New Era in Angola," U.S. Dept. of State Press Statement by Philip T. Reeker, Deputy Spokesman, November 22, 2002.

15 Slovenian International Trust Fund for Demining and Victims Assistance, Appendix D, "To Walk the Earth in Safety," U.S. Department of State, Bureau of Political-Military Affairs annual report Fourth Edition, September 2002.

16 "Public-Private Partnerships: Toward a Mine-Safe World," catalog of the Office of Mine Action Initiatives and Partnerships, Bureau of Political-Military Affairs, U.S. Department of State, September 2002.

Appendix: Milestones in Humanitarian Demining Fact Sheet

**BUREAU OF POLITICAL-MILITARY AFFAIRS, WASHINGTON, DC
APRIL 15, 2002**

Milestones in Humanitarian Demining: Development of the Landmine Threat and the Discipline of Humanitarian Demining

These milestones were compiled with the assistance of the U.S. Department of Defense and the Mine Action Information Center at James Madison University.

1862	One of the earliest known casualties of a landmine as defined today—a victim- activated device filled with explosive—is a Union soldier killed by a Confederate landmine during the U.S. Civil War. Five lethal Confederate landmines were discovered near Mobile, Alabama in the 1960s still lying in wait.
1914 - 1918	Anti-personnel landmines are employed on a relatively small scale in some 19th century colonial campaigns and during the Russo-Japanese War (1902 - 1906) but do not become a major weapon of war until about 1918, late in the First World War.
1939- 1945	During the Second World War, anti-personnel and anti-tank mines are employed in large quantities in all of that war's theaters. Some remain a menace to this day.
1945	The French, employing 49,000 German POWs as well as French civilians and military personnel, begin one of the earliest post-war efforts to methodically and comprehensively clear landmines and unexploded ordnance.
1970s	The U.S. Department of Defense begins replacing persistent ("dumb") anti-personnel and anti-vehicle landmines in its stockpiles with self-destructing and self-deactivating ("smart") landmines to prevent enemy use of U.S. landmines against U.S. forces and minimize the threat to non-combatants.
1980s	The Convention on Certain Conventional Weapons is created to regulate the use of anti-personnel and anti-vehicle landmines. The United States takes the lead in drafting Protocol II, known as the Amended Mines Protocol, specifically to address landmines, booby traps, and other delayed-action devices.
October 1988	Following careful analysis of the extraordinary landmine threat in Afghanistan, the United States helps establish a comprehensive program to clear landmines. Today, this program, the Mine Action Program for Afghanistan, is the world's largest and most productive demining effort. The

founders of the Halo Trust, a private demining organization engaged in the earliest mine clearance programs in Afghanistan, are credited with coining the term "humanitarian demining" to differentiate the activities in Afghanistan from traditional military mine clearance and to reflect the scope of the landmine threat to civilians, their land and infrastructure.

October 1992   The United States unilaterally bans the export of its anti-personnel landmines. Congress later formalizes this ban, per Public Law 102-484, Section 1365; 22 United States Code, 2778 note. That law expires in 2008.

October 1993   The United State formally establishes the U.S. Humanitarian Demining Program, an inter-agency (Department of State, Agency for International Development, Department of Defense) effort to provide a full range of assistance to mine affected countries that seek U.S. help. Previously established U.S. humanitarian demining programs (Afghanistan 1988, Cambodia 1991, Kuwait 1991, Northern Iraq 1992, Somalia 1991, El Salvador 1993, and Mozambique 1993) are brought into the Program. It is difficult to quantify U.S. humanitarian demining funding outlays prior to October 1993, but since then the U.S. has spent over $500 million.

September 1994   In an address to the UN General Assembly, President Bill Clinton becomes the first world leader to call for the eventual elimination of anti-personnel landmines.

December 1994   The U.S. Department of State's Bureau of Political-Military Affairs releases "HIDDEN KILLERS: The Global Landmine Crisis," the first report to estimate the magnitude of the landmine threat in terms of numbers of mines laid and numbers of mine-related deaths and injuries. The newest edition of "HIDDEN KILLERS," released fall 2001, with current statistics on the generally reduced numbers of extant landmines and landmine casualties is appended to "To Walk the Earth in Safety," the annual report of the Office of Humanitarian Demining Programs. The fourth edition of "HIDDEN KILLERS," is available on-line at http://www.state.gov/t/pm/rls/rpt/hk/2001/6961.htm.

May 1996   The Convention on Certain Conventional Weapons Review Conference adopts the Amended Mines Protocol (AMP), which significantly improves the original 1980 Protocol. The AMP is made applicable to internal armed conflicts as well as international armed conflicts.

June 1996   The U.S. Secretary of Defense directs implementation of the President's new policy on anti-personnel landmines (APL). Key elements of the policy include: research and procurement of alternatives to APLs, development of operational doctrine tactics and plans to reduce or eliminate the reliance on APLs, removal of non self-destructing landmines from basic ammunition loads (South Korea excepted), expansion of humanitarian demining research and development, and expansion of humanitarian demining efforts.

September 1996   The United States unilaterally begins removing its anti-personnel and anti-tank mines from the perimeter of the U.S. Naval Base, Guantanamo, Cuba.

	Clearance is completed in 1999. Quality assurance/verification is completed in May 2000.
October 1997	The United States designates a Special Representative of the President and Secretary of State for Global Humanitarian Demining and establishes a supporting office, now called the Office of Mine Action Initiatives and Partnerships in the Bureau of Political-Military Affairs, at the U.S. Department of State. The mission is to increase international cooperation and coordination for humanitarian demining, raise U.S. public awareness of and support for humanitarian demining via public-private partnerships, and coordinate R&D in humanitarian demining.
December 1997	The 1997 Convention on the Prohibition and the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, commonly referred to as the Mine Ban Treaty or Ottawa Convention, is opened for signature in Ottawa, Canada. The United States participates in the Convention but ultimately declines to sign it due to unmet concerns relating to the protection of its forces and allies and the lack of exemptions for mixed munitions.
December 1997	The first edition of ORDATA, "The International Deminers Guide to Unexploded Ordnance (UXO) Identification, Recovery and Disposal" is released to the public in CD-ROM format by the U.S. Department of Defense. It achieves immediate success in providing the international demining community with a free, first-of-its-kind unclassified reference tool for identifying, recovering and disposing of unexploded ordnance and landmines. ORDATA has since been followed by ORDATA II and KORDATA, and is expected to go on-line in May 2002. To date, over 18,000 copies of the ORDATA series database have been distributed free of charge to the international demining community, as well as U.S. and foreign military and civilian bomb disposal technicians.
June 1988	The United States completes destruction of over 3.3 million of its non-self-destructing landmines, retaining only those necessary for training, research, and the defense of South Korea.
June 1998	The United States establishes the Office of Humanitarian Demining Programs in the Bureau of Political-Military Affairs at the U.S. Department of State. This Office is the lead U.S. Government entity that, as of April 2002, now manages humanitarian mine action assistance in nearly 40 countries.
December 1998	The U.S.-drafted Amended Mines Protocol to the Convention on Certain Conventional Weapons enters into force.
May 1999	The United States ratifies the Amended Mines Protocol of the Convention on Certain Conventional Weapons.
February 2000	The Deminer Injury Study, conceived, initiated and sponsored by the U.S. Department of Defense, is released to the international demining community. Initially intended to help the U.S. Government design personal protective

equipment, it breaks new ground and provides a baseline for future collection of deminer injury data. The Study has since been undertaken as a long-term project by the Geneva International Center for Humanitarian Demining.

July 2000   The United States, European Commission, Belgium, Canada, the United Kingdom, the Netherlands and Sweden sign the International Test and Evaluation Program (ITEP) for Humanitarian Demining Equipment, Processes and Methods.

August 2000   The U.S. Department of Defense releases the final report of its Lower Extremity Assessment program which utilized full-body human cadavers to fully evaluate the mechanism of injury and determine current levels of protection provided by commercially produced landmine protective footwear. The research breaks new ground in the use of test instrumentation, in particular high-speed radiographic imaging (cineradiography).

April 2001   In cooperation with the Republic of Mozambique, the U.S. Office of Humanitarian Demining Programs establishes a "Quick Reaction Demining Force" (QRDF). The QRDF is a permanent, professional humanitarian demining cadre composed primarily of 40 Mozambican mine clearance specialists who can deploy worldwide within 14 days of activation to provide immediate demining assistance in emergency humanitarian situations. In between deployments beyond Mozambique, the QRDF engages in humanitarian demining in support of Mozambique's National Demining Office, performing valuable service in that mine-affected nation while keeping its professional skills finely honed.

June 2001   The United States proposes a Protocol to the Convention on Certain Conventional Weapons to deal with mines other than anti-personnel landmines, in particular anti-vehicle mines.

June 2001   "Broken Earth," a documentary produced by the U.S. Department of State on the global landmine problem, which includes vignettes on three mine-affected countries, is released. "Broken Earth" is broadcast by the PBS television network in approximately 70 U.S. markets and overseas in 26 countries.

July 2001   The results of the International Pilot Project for Technology Cooperation are published. The U.S. Department of Defense conceived this milestone report, also known as the metal detector "consumer report," the first-ever attempt to conduct a multinational test and evaluation venture. Canada, the Netherlands, the United Kingdom and the European Commission's Joint Research Center eventually joined the U.S. in evaluating 25 different detector models from 13 manufacturers. The project determined the best detector(s) for a given set of operational parameters and served as a pilot project for the International Test and Evaluation Program.

November 2001   "Landmines: Clearing the Way," a comprehensive resource of information and field experience on the global landmine issue in CD-ROM-format, is released by the U.S. Department of State. The CD-ROM is a cooperative

effort by the U.S. Department of State, U.S. Department of Defense, National Committee on American Foreign Policy, and the Rockefeller Foundation, produced by Huntington Associates.

December 2001   At the Second Review Conference pertaining to the Convention on Certain Conventional Weapons, 11 countries co-sponsor the U.S.-proposed protocol on anti-vehicle mines. The Conference decides to continue work on the proposed protocol in 2002.

April 2002   The Quick Reaction Demining Force (see April 2001 reference) makes its first foreign deployment to Sri Lanka in order to assess the landmine threat there and perform short-term clearance to protect some 200,000 internally displaced persons being resettled pending the start of UN relief operations.

Disarmament and the Fight Against Landmines

by Marco Kalbusch

I. INTRODUCTION

In 1988, the United Nations' Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA) initiated on the ground the first UN Programme for humanitarian mine action in the world, the Mine Action Programme for Afghanistan (MAPA). The programme, which actively involves the local population, has evolved into a partnership with local and international non-governmental organizations ("NGOs"). It reflects the growing United Nations response to the global threat posed by anti-personnel landmines. There are currently twelve UN departments and agencies engaged in mine action. The United Nations Department for Disarmament Affairs ("DDA"), which was been re-established in 1998 to respond effectively to the priorities of Member States in the field of disarmament, is one of them. Its responsibilities comprise the monitoring and analysis of developments in the field of disarmament, to ensure the support to relevant inter-governmental deliberative, negotiating and decision making bodies, and to provide support to review and implementation of disarmament agreements.

Notwithstanding, however, the efforts of the United Nations, Member States and NGOs to remove landmines on the ground, to reduce their threat through mine awareness and risk education programs, and to respond to the needs of landmine victims for physical, social and psychological assistance, more mines continue to be laid in many parts of the world affected by armed conflicts.

Anti-personnel landmines are weapons designed to maim rather than to kill. They do not differentiate between friend or foe, combatant or civilian, adult or child, man or woman. They are classified as excessively injurious, with indiscriminate effect[1]. Since landmines remain silently buried in the ground, they kill and injure millions of people years after hostilities have ended. The mere fear of the presence of a single mine can prevent the cultivation of an entire field, rob a village of its livelihood, block children's access to schools and families' access to fresh water. Landmines threaten the ability of the United Nations and other aid agencies to provide humanitarian assistance where it is most needed, and place a major obstacle in a country's path towards reconstruction and development[2].

This article will introduce the reader to the main legal instruments dealing with

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the issue of landmines, their objectives, mechanisms, implementation and promotion. It will highlight the role and responsibilities of the United Nations, in general, and the Department for Disarmament Affairs, in particular, in the implementation and promotion of these instruments.

The mere fear of the presence of a single mine can prevent the cultivation of an entire field, rob a village of its livelihood, block children's access to schools and families' access to fresh water.

II. Existing Legal Instruments

To date, the problem of landmines has known three consecutive responses by the international community: Protocol II[3] to the Convention on the Prohibition or Restriction on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects,[4] adopted on 10 October 1980, and entered into force on 2 December 1983 ("Protocol II to the CCW-Convention"); Amended Protocol II[5] to the CCW-Convention, adopted at the first review conference on 3 May 1996, entered into force on 3 December 1998; and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, adopted in Oslo on 18 September 1987, signed in Ottawa and entered into force on 1 March 1999 ("The Mine Ban Convention").[6]

The Secretary-General is the depositary[7] of both the CCW-Convention and the Mine Ban Convention, and as such, is responsible for ensuring the proper execution of all actions relating to these treaties. A depositary's duties are international in character and he is under an obligation to act impartially in the performance of those duties. He receives instruments of ratifications, deposits, notifications of consent to be bound by an annexed protocol and notifications of denunciation. He also informs the States Parties about such ratifications and notifications.

In addition to his duties as depositary, the Secretary-General is also responsible for convening the annual meeting or conferences of States Parties and reviewing conferences. He receives reports, proposals for amendments and is involved in the facilitation and clarification of compliance procedures.

1. Protocol II to the CCW-Convention ("Protocol II")

Protocol II to the CCW-Convention restricts the use of mines, booby-traps and other devices in an international armed conflict. It prohibits the use of these weapons against the civilian population or in an indiscriminate manner, restricts their use in populated areas and contains specific restrictions for remotely delivered mines[8]. It also prohibits certain types of booby-traps—those that would, because of their use or type, especially affect civilians and non-combatants, and those that are designed

to cause superfluous injury or unnecessary suffering.[9] States Parties have a duty to record and publicize the location of minefields, mines and booby-traps and to protect United Nations forces and missions from their effects. Protocol II is binding for all 90 States Parties to the CCW, although 65 of them have notified their consent to be bound by its amendments agreed upon under Article 8 of the CCW.

2. Amended Protocol II to the CCW – Convention ("Amended Protocol II")
    Amended Protocol II reinforces the prohibition or restriction of the use of landmines, booby traps and other devices and extends the application of the protocol to armed conflicts not of an international character.[10] It has currently 65 States Parties. In regard to landmines, this instrument addresses three major issues: the prohibition of certain categories of mines, the restriction in the use of mines, and the responsibilities of States and non-state actors in the protection of civilians, peacekeepers and humanitarian workers. States Parties to Amended Protocol II have agreed not to use mines, booby traps and other devices which will cause superfluous injury or unnecessary suffering, are designed to detonate in proximity of a commonly available mine detector, or are self-deactivating but have anti-handling devices. They have also agreed not to use remotely delivered mines that do not have an additional back-up self-deactivation feature.

    When using mines not prohibited by the Protocol, commonly known as "smart" mines, States Parties must make a distinction between civilian and military objectives,[11] must ensure that the mines used are in compliance with the provisions of self-deactivation set out in the technical annex,[12] must sufficiently monitor the mined areas in order to ensure the effective exclusion of civilians from these areas, and must give effective advance warning to the civilian population before remotely delivering mines.[13] In addition, they must not use mines in towns, cities and other settlements where no combat between ground forces takes place. When using mines, it is the responsibility of States to identify, record, and mark mine fields and exclude civilians from them, and once the hostilities have ended, to clear the minefields.

    Amended Protocol II, furthermore, provides for the protection of peacekeeping and humanitarian missions from the effect of landmines. This protection is enjoyed by missions under Chapter VII of the Charter of the United Nations, as well as, by regional missions pursuant to Chapter VIII of the Charter. Similarly, humanitarian fact-finding missions engaged in by United Nations departments and agencies, the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent societies and NGOs are also afforded such protection. The personnel of such missions have to be protected from the effects of mines, booby-traps and other devices, as they are entitled to safe passage and may not be hindered in their activities.[14]

3. The Mine Ban Convention
    The States Parties to the Mine Ban Convention have opted for a more radical approach—the total prohibition of anti-personnel landmines. Under this Convention,

States Parties have agreed to never use, develop, produce, stockpile or transfer anti-personnel landmines or to assist any other party to conduct such activities. They have engaged themselves to destroy all stockpiled anti-personnel landmines within four years of the Convention's entry into force and to clear all laid landmines within ten years from that date. Within their means they have agreed to provide assistance to mine clearance, mine awareness, stockpile destruction and to victims worldwide.[15]

III. Nexus between Humanitarian and Disarmament Law

Both the Convention on Certain Conventional Weapons and its protocols, and the Mine Ban Convention are legal instruments that have their roots in international humanitarian law as well as in disarmament. Protocol II and Amended Protocol II are in the tradition of the Geneva Convention: humanitarian law, rules of warfare, and the protection of the civilian population. In its third preambular paragraph, the Convention refers to the "principle of international law that the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited", and to the "principle that prohibits the employment in armed conflicts of weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering." But the Convention on Certain Conventional Weapons and its protocols are also a disarmament treaty in the more classical sense.[16] They also invoke the "importance of pursuing every effort which may contribute to progress towards general and complete disarmament under strict and effective international control," in the hope that positive results in the prohibition or restriction of use of certain conventional weapons will facilitate "main talks on disarmament with a view to putting and end to the production, stockpiling and proliferation of such weapons."[17]

The Mine Ban Convention is also based, according to its preambular paragraph 11, on the principle of humanitarian law that the right of the parties to an armed conflict to choose methods of warfare is not unlimited. As it outlaws not only certain forms of mines and some of their use, this instrument is also a disarmament treaty, aimed at total and universal disarmament in regard to anti-personnel landmines.[18]

IV. Transparency and Compliance

An important feature of both the Amended Protocol II of the CCW and the Mine Ban Convention is their detailed reporting, compliance and verification procedure.[19] Amended Protocol II and the Mine Ban Convention require that States Parties convene annual conferences or meetings to consider any matter with regard to the application or implementation of the instruments,[20] a reporting mechanism,[21] and monitoring and verification procedures.[22]

1. Annual Meetings and Conferences[23]

Through the Department for Disarmament Affairs Annual, the Secretary-General of the United Nations convenes the annual meetings under the Mine Ban Convention and the annual conferences under Amended Protocol II. DDA is also responsible for their organization and servicing. At these meetings issues such as, the operation and status of the legal instrument, reports received by States Parties, technological developments, and international cooperation and assistance are discussed among States Parties. Other States, international organizations and some members of civil society take part in the discussion as observers, if the rules of procedure provide for such an option. Non-States Parties and non-state actors may otherwise participate through several side events that accompany the formal sessions.

2. Intersessional Work Programme under the Mine Ban Convention[24]

In addition to the annual meetings, the States Parties to the Mine Ban Convention established the Intersessional Work Programme.[25] The program's objective is "to ensure the systematic, effective implementation of the Convention through a more regularized programme of work." It also envisioned that "informal, open-ended intersessional working groups" would be created to "engage a broad international community for the purpose of advancing the achievement of the humanitarian objectives of the Convention." These working groups are intended to "facilitate in-depth considerations of mine action issues by all interested parties at meetings which complement and build upon each other in a structured and systematic way," aimed at organizing "the work within the framework of the Convention in a way which promotes continuity, openness, transparency, inclusiveness and a cooperative spirit."[26]

3. Reporting Mechanism

States Parties are obliged to submit their reports under both legal instruments to the Secretary-General. Where appropriate, the Department for Disarmament Affairs disseminates these reports, mainly through the United Nations' web page, and makes them available for all States, International Organizations, civil society groups and individuals interested.

a. Reporting Under the Mine Ban Convention

Under Article 7 of the Mine Ban Convention, States Parties are required to submit an annual report on the location of all mined areas under their jurisdiction or their control. The information reported must include the following data:

1) the type, quantity and age of the mines laid there, as far as it is known;
2) the total number and the types of all stockpiled mines;
3) the number kept for training in mine detection, clearance and destruction techniques;
4) the progress of mine destruction programs, including the number and types of mines destroyed, the location of the destruction site and the environmental and safety standards and measures observed during the destruction; and

      5) legislation and administrative regulations taken to prevent and suppress
         violations of the Convention.

    This measure is aimed at building confidence in the Convention and at permitting a continuing assessment of the progress made in applying the Convention and meeting its objectives. The information obtained through the reporting highlights States' Parties requirements for international assistance and helps the mine action community at large to define and adapt its actions and activities in support of the implementation and the fight against landmines.

    To facilitate this undertaking and to promote comparability and evaluation of data, in May 1999 the First Meeting of States Parties in Maputo adopted a standard reporting format.[27] The Second Meeting of States Parties of September 2000 in Geneva amended the reporting format to include an additional form ("Form J") for "other relevant matters."[28] The so-called Form J provides States Parties with the opportunity to report voluntarily on matters pertaining to the compliance and implementation that are not covered by the formal reporting requirements of Article 7. It gives the States Parties the possibility to report on activities undertaken with respect to Article 6 of the Convention on victim assistance, such as care and rehabilitation or social and economic reintegration of mine victims.

    The Department for Disarmament Affairs supports and continuously updates a computerized database to collect, store, retrieve and disseminate data and information submitted by the States Parties under Article 7.[29] This database also contains links to the final reports of the Meetings of States Parties, a "guide to reporting under Article 7 of the Ottawa Convention", published by VERTIC, the reporting formats for Article 7, available in all six official languages of the United Nations, and the website on the Status of Multilateral Arms Regulations and Disarmament Agreements.[30] The database is publicly accessible through the internet.[31] As of January 31, 2003, 104 States Parties have submitted their reports under Article 7.[32]

b. Reporting Under Amended Protocol II

    Under Article 13 of Amended Protocol II of the CCW, every State Party to the protocol provides annual reports on its implementation of the protocol. These reports, which are circulated to all States Parties in advance of the annual conference, contain information similar to that reported under Article 7 of the Mine Ban Convention. For example, they include information on mine clearance and rehabilitation programs and national legislation on the implementation of the protocol, as well as, information on measures taken on international technical information exchange, international cooperation on mine clearance, and technical cooperation and assistance. In addition, the States Parties are also required to report on the dissemination of information on the protocol to their armed forces and the civilian population.[33] Furthermore, since the protocol does not totally prohibit the use of anti-personnel landmines, State Parties must provide information on the fulfillment of technical requirements when it comes to the production, use and stockpiling of anti-personnel landmines and other weapons addressed by Amended Protocol II.

4. Compliance and Verification Mechanism

The compliance and verification regimes provided by both Treaties are based on a spirit of cooperation among the States Parties rather then on coercive measures.

a. Compliance and Verification under Amended Protocol II

Article 14 of the Amended Protocol II provides that, problems related to the interpretation and application of the protocol are resolved either bilaterally through cooperation and consultation, through the Secretary-General of the United Nations,[34] or through other appropriate measures. The protocol hereby refers to the common norms of public international law, be it codified or customary. This could include the use of the good offices of the Secretary-General of the United Nations or any other international entity in the position to offer such offices, or the use of existing bi- or multilateral procedures among States. A State Party could also approach the International Court of Justice, if the conditions for the reception of a case are met under the Statute of the Court.[35]

b. Facilitation and Clarification of Compliance under the Mine Ban Convention

Article 8 the Mine Ban Convention has a very elaborate procedure, which is also based on consultation and cooperation among the States Parties, in order to ensure the compliance with the Convention.[36]

If one or more States Parties wish to clarify and resolve issues related to another party's compliance (or non-compliance) with the convention's provisions, they can submit a request for clarification, through the Secretary-General of the United Nations to that State Party. The request has to be accompanied by the appropriate information on which the request for clarification is based. The State Party to which the request has been addressed then has the duty to reply to the party or parties that submitted the request, also through the Secretary-General, within 28 days. In case no reply or an unsatisfying reply has been given, the matter may be submitted again, through the Secretary-General, to the next Meeting of States Parties, or to a Special Meeting of States Parties, that would have to be convened by the Secretary-General at the proposal of the requesting State Party.[37]

In case the matter cannot be clarified at a meeting of the States Parties, the meeting can authorize a fact-finding mission to collect additional information at any place directly related to the compliance issue under the jurisdiction or the control of the requested State Party. The requested State Party has the duty to take certain measures, such as providing for the reception, transportation, accommodation, and security of the mission, and must give it access to the necessary information, to the extent it does not interfere with the country's sovereignty. Upon considering the information it has obtained, the meeting of States Parties may then request, if relevant, the requested State Party to take certain measures to address the compliance issue, and may also suggest to States Parties concerned ways to further clarify or resolve the matter under international law.

The requested State Party itself may, at any time, invite a fact-finding mission

to its territory, without having to await a decision or an authorization of such a mission by a special or ordinary meeting of States Parties.[38] It is up to the Secretary-General of the United Nations to appoint, on request of the meeting and after consultations with the requested State Party, the members of the mission, including its leader. The members will be chosen from an updated list of qualified experts proposed by States Parties.[39]

Other issues or disputes arising from the application or interpretation of Treaty provisions may be resolved through Article 10 of the Mine Ban Convention. Article 10 provides for a settlement of disputes through consultation and cooperation among the States Parties, or the possibility to bring a dispute before the annual Meeting of States Parties, which may itself contribute to the settlement of disputes by appropriate means, including good offices and the call for the application of a settlement procedure to be chosen by the parties to the dispute.[40]

V. ADVOCACY

In order to implement the above-mentioned legal instruments, DDA is also actively involved in advocacy, in order to stigmatize the use of landmines and to support a ban on anti-personnel landmines. Advocacy is one of the five pillars of mine action through which the United Nations has been striving to protect civilians trapped by armed conflicts, and is an important part of the United Nations' Five Year Mine Action Strategy.[41]

The strategy is built around six broad, complementary rather than hierarchical, goals[42] that are relevant to all core components of mine action[43]. The goals, organized according to key themes, together form an integrated strategy. For each objective, the relevant United Nations agencies, identified by the Inter-Agency Coordination Group on Mine Action,[44] establishes action plans, consisting of time lines, progress indicators and supporting outputs.[45]

Advocacy entails promotion of mine awareness and risk reduction education, minefield survey, mapping, marking and clearance, victim assistance, including rehabilitation and reintegration, and destruction of stockpiles. The United Nations activities in the field of advocacy are driven by the humanitarian approach to protect civilians, non-combatants, humanitarian workers and peacekeepers from the threat caused by landmines.

1. Promoting the Legal Instruments

The focus of UN mine advocacy efforts is the promotion of these two legal instruments (the Mine Ban Convention and Amended Protocol II of the CCW[46]) in order to persuade States of the practical and legal necessity of compliance with them. To this end, advocacy efforts aim to assist States in their national efforts to ratify or adhere to these two instruments and to take the necessary measures in their national legislation, administrative procedures and other fields to implement these instruments within their jurisdiction. The advocacy efforts made by the Department

for Disarmament Affairs are embedded in the efforts of the other eleven United Nations departments and agencies that coordinate their mine action efforts with the Mine Action Service, the United Nations' focal point for mine action.

To be effective, those advocating the mine ban convention need the trust and the confidence of their interlocutors. The needs, fears, and obligations of those States approached to adhere to the conventions have to be understood, and an adequate response needs to be found. It is important the States understand that their commitment to the Mine Ban Convention or Amended Protocol II to the CCW does not infringe on their national sovereignty, and that the duties and obligations of both instruments are in line with the existing obligations of the States under current customary or codified international humanitarian law. Some issues are only the concretization of existing obligations; others are the further development of these obligations, to find the most effective global response to the threat anti-personnel landmines pose to the whole of humanity.

When advocating the Mine Ban Convention or Amended Protocol II, one encounters an apparently contradictory behavior of some States Parties: the fact that several States are States Parties to only one instrument. Of the 131 States Parties to the Mine Ban Convention only 54 countries are also bound by Amended Protocol II to the CCW. Some of the major contributors to mine action, especially mine clearance, mine risk education and victim assistance, are not bound by the Mine Ban Convention, but only by Amended Protocol II of the CCW.[47] Reasons for such decisions are manifold: some have declared their will to adhere as soon as their national situation permits it.[48] Others have concerns of national security[49] or other legal obligations, which they invoke as reason not to adhere to one or both legal instruments.

There are other important points addressed when advocating the two treaties. For example, it is necessary to show that anti-personnel landmines do not only threaten civilians and enemy combatants, but that they pose as much a threat to a State's own combatants. In addition, peacekeeping, medical, humanitarian and development personnel are also at risk. Finally, there are military alternatives to landmines with the same or even better effects and less humanitarian impact.[50]

2. Mainstreaming the Landmine Issue

In addition to gaining the trust of States, it is also important to keep the issue of landmines on the public agenda, for the very reasons that led to the conclusion of both instruments. Since the entry into force of the Mine Ban Convention and Amended Protocol II of the CCW, it appears to some that the issue has found an adequate response and that the international attention should now turn to new issues.[51] Although the two instruments are in force and are implemented on a global scale, they still need to be complied with by an ever increasing number of States Parties to reach their final goal: the elimination of the threats caused by landmines.

The Secretary-General of the United Nations, the Under-Secretary-General for Disarmament Affairs and other United Nations officials take every opportunity to

raise the issue of landmines and constantly reaffirm the United Nations' support to mine affected countries, be it in bilateral talks with representatives of governments, at interventions before the Organs of the United Nations,[52] at public events, in the press, or when meeting representatives of civil society or individuals. While the public sometimes hears of the success of these efforts, most of the time, success only appears at a later stage, in decisions, actions or the current practice of States. Evidence of success may be reflected by the request of a Member State to the United Nations to address a mine problem in a country where the issue was previously not considered to be relevant. Success may also be evidenced by the request for assistance in the drafting of national legislation in order to effectively implement the Mine Ban Convention or Amended Protocol II to the CCW. Furthermore, success may be reflected by the request for an assessment mission by the United Nations to identify the issues that need to be addressed in order that a State can become a State Party to either instrument and fulfill its obligations.

This mainstreaming of the landmine issue is also aimed internally at the United Nations system itself. As much as anti-personnel landmines can affect all aspects of the daily life in a mine-affected country or society, they do also affect very different aspects of the work of the United Nations. In contingency planning, the risks and threats posed by landmines have to be taken into account when preparing for the transfer of refugees or internally displaced persons, when preparing for the evacuation of United Nations personnel, and when choosing sites for food-dropping, medical clinics, or the temporary resettlement of civilians. When brokering ceasefire accords or peace treaties, essential landmine-related issues, such as the exchange of technical information between former parties to a conflict, the marking of minefields and the eventual clearance of landmines, the use, production, transfer and stockpiling of mines, and international cooperation and assistance, need to be addressed.[53] In order to achieve the humanitarian goals when addressing the landmine issue during or after non-international armed conflicts, it might be necessary to involve non-State actors, who might also be users and producers of anti-personnel landmines, in the efforts. When operating in mine affected countries aid workers have to be prepared to give victim assistance. And, in peacekeeping operations in mine-affected countries, the local population, as well as, United Nations military and civilian personnel must be made aware of the risks. Furthermore, in development work, the impact of landmines on the society has to be taken into account when preparing and executing programs on the ground.[54]

3. Advocacy on the ground through DDA's Regional Centres

In addition to its advocacy at United Nations Headquarters, the Department for Disarmament Affairs, through its regional centers, is also engaged in advocacy on the ground. For example, the United Nations Regional Centre for Peace and Disarmament in Africa, based in Lomé, Togo, is actively involved in the promotion of the Mine Ban Convention in Africa, and has prepared a strategy paper on Africa's role in the universalization and promotion of the Convention.[55] In the Democratic

Republic of the Congo, the Regional Centre started preparations for a 'sensibilization' campaign on Anti-personnel Landmines, financed by the Belgian government. The Centre conducted an assessment mission to determine the location of landmines in the conflict zones, and established contacts with civil society, the UN Mission on the ground (MONUC) and several UN agencies to prepare sensibilization approaches and mine clearance perspectives, and to develop partnerships for the execution of the campaign.

The United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UN-LiREC) has organized several activities in the region related to landmines. These activities are geared towards assisting with the implementation of the Mine-Ban Convention in the region, providing a local platform for coordination and cooperation, and influencing the daily lives of people in the region.[56]

VI. CONCLUSION

March 1, 2003 marks the fourth anniversary of the entry into force of the Mine Ban Convention. This date is also the deadline for the first 45 States Parties to the Mine Ban Convention, to have destroyed all their stockpiles of anti-personnel landmines in accordance with Article 4 of the Convention. At the time of writing, 44 of these States Parties[57] have reported that they have met their obligations, by the end of 2003, 37 more countries are expected to have fulfilled their obligations under Article 4 of the Mine Ban Convention. Since the entry into force of the Convention, 55 States have destroyed a total of some 30 million anti-personnel landmines, the numbers of casualties per year have been drastically reduced and technical cooperation and assistance has increased,[58] the current annual funding for mine action being around 200 million USD.[59] These statistics show the effectiveness of the convention as a disarmament treaty guided by humanitarian considerations and aimed at the elimination of an entire category of conventional weapons. In September 2003 the States Parties to the Mine Ban Convention will hold their 5th meeting in Bangkok, which will be of major importance for the first review conference of the convention, which will be held in 2004. The next major deadline of the Convention is March 1, 2009, when the first 45 countries are supposed to also have cleared the minefields under their jurisdiction.

In the framework of the CCW further developments are expected in the course of the year 2003. On the issue of explosive remnants of war (ERW)[60] the States Parties to the CCW reached an agreement in December 2002 to follow a dual track approach that follows the recommendations of the Group of Governmental Experts for the negotiation of a legally binding instrument.[61] The experts have received a negotiating mandate on post-conflict remedial measures and a mandate to further explore preventive measures.[62] These measures would address a broad type of munitions, with the exception of mines. Meanwhile on the issue of Mines Other

Than Anti-Personnel Mines (MOTAPM), the States Parties gave the Group of Governmental Experts the mandate to explore the issue further, including the possibility of a negotiating mandate.[63] Some delegations considered a negotiating mandate for a new protocol superfluous, as they see the issue sufficiently covered by Amended Protocol II.

These developments, both in regard to the Mine Ban Convention and the Convention on Certain Conventional Weapons are promising and motivating at the same time. When addressing the landmines issue, humanitarian concerns have led to disarmament treaties, and disarmament treaties have contributed to the promotion, codification and implementation of international humanitarian law. The negotiations on a protocol on ERW under the CCW-Convention are the next step on the same road. The fight against landmines and other inhumane weapons will nevertheless need further activities and discussions from all sides: States, International Organizations, civil society, and of course the victims and their families. We have come quite far and are approaching total and complete disarmament for at least this category of conventional weapons, but the road is still long.

Notes

[1] International Committee of the Red Cross (ed.), "Anti-personnel Landmines

—Friend or Foe?" Geneva 1996, p. 9.

[2] Message from Secretary-General Kofi Annan, on: http://www.un.org/Depts/dpko/mine/sg.htm.

[3] Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices

[4] Adopted by consensus by the United Nations Conference on the Prohibition or Restriction on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects, which was held in Geneva from 10 to 28 September 1979 and 15 September to 10 October 1980. Also called Convention on Certain Conventional Weapons, CCW or Inhumane Weapons Convention. UNTS, vol. 1342, p. 137.

[5] Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as Amended on 3 May 1996. UN Doc. CCW/CONF.1/16 (Part II)

[6] UNTS, vol. 2056, p. 211.

[7] cf. Article 98 of the Charter of the United Nations and Article 77 of the Vienna Convention on the Law of Treaties. Further information on the role of the Secretary-General as a depositary can be found under: http://untreaty.un.org/ Cf. also: Ian Brownlie, Principles of Public International Law, Oxford 1998. p. 616

[8] Articles 3, 4 and 5 of Protocol II.

[9] Article 6, which refers, inter alia, to "booby-traps which are in any way attached to or associated with internationally recognized protective emblems, signs or signals; sick, wounded, or dead persons; medical facilities, equipment, supplies or transportation; children's toys, objects or products designed for health, hygiene, clothing or education of children; food or drink; kitchen utensils and appliances that are not located in military establishments or supply depots; religious objects and places of worship; historic monuments and works of art which constitute the spiritual heritage of peoples. Cf. also Article 35 of the Additional Protocol I to the Geneva Convention, of June 8, 1977, UNTS 1125, p. 3.

[10] Article 1 par. 2 of Amended Protocol II. Internal armed conflicts are also called "civil wars", and are violent confrontations within a State that go beyond the realms of domestic law; cf. A.P.V. Rogers, Civil War, in: Roy Gutman and David Rieff (ed.), Crimes of War, New York 1999, p. 82, cf. also Steven R. Ratner, International vs. Internal Armed Conflict, p.206.

[11] cf. relevant Article in Geneva Protocol.

[12] They have to be designed in a way that no more than 10% of activated mines will fail to deactivate within 30 days after emplacement and in combination with a self-destruction mechanism not more than 1

in 1000 activated mines will function as a mine 120 days after emplacement; cf. par. 3 of the technical annex.

[13] Gives examples of remote delivery of landmines.

[14] Art. 12, par. 3 (b) (ii).

[15] Articles 1, 4, 5 and 6 of the Mine Ban Convention.

[16] Knut Ipsen, Völkerrecht, München 1999, p. 986; cf. Fleck, Current legal and policy issues , in: Julie Dahlitz (ed.), Future Legal Restraints on Arms Proliferation, Geneva 1996, p. 21-46.

[17] Preambular paragraph 9 of the CCW-Convention

[18] cf. Report of the First Committee, "General and complete disarmament", A/57/510; Knut Ipsen, Völkerrecht, München 1999, p. 996.

[19] Protocol II of the CCW does not have any provisions installing a verification or compliance procedure.

[20] Article 11 of the Mine Ban Convention; Article 13 of Amended Protocol II reads "The High Contracting Parties undertake to consult and cooperate with each other on all issues related to the operation of this Protocol."

[21] Article 7 of the Mine Ban Convention and Article 13, par. 4 of Amended Protocol II.

[22] Article 8 of the Mine Ban Convention and Article 14 of Amended Protocol II.

[23] Article 13 of Amended Protocol II and 11 of the Mine Ban Convention.

[24] The so-called "intersessionals" are neither convened, nor serviced by the United Nations. Nevertheless the United Nations is represented and participates actively in the intersessionals. For more information on the intersessional work programme: http://www.gichd.ch/mbc/iwp/index.htm.

[25] Par. 25 of the Final Report, and par. 16 of the Maputo Declaration (Part II of the Final Report), UN Doc. APLC/MSP.1/1999/1. The program was created at the First Meeting of the States Parties in Maputo, in May 1999. At this meeting, the States Parties "recognized the importance of having intersessional Standing Committees of Experts on issues related to the operation of the Convention." On the basis of the President's Paper the States Parties established the intersessional work programme, made up of the five committees each meeting twice between Meetings of the States Parties.

[26] President's paper of the First Meeting of States Parties: UN Doc. APLC/MSP.1/1999/INF.1. At the Second Meeting of the States Parties in Geneva, in September 2000, on the basis of the President's Paper on Revisions to the Intersessional Work Programme,the States Parties made some adjustments (Par. 28 of Part I and par. 11-13 of Part II of the Final Report, UN Doc. APLC/MSP.2/2000/1; cf. also President's paper of the Second Meeting of States Parties UN Doc. APLC/MSP.2/2000/L.5). Five standing committees became four (General Status and Operation of the Convention, Victim Assistance and Socio-Economic Reintegration, Mine Clearance, Mine Awareness and Mine Action Technologies, Stockpile Destruction) as "technologies for mine action" became a subject matter incorporated into the work of the Standing Committee responsible for mine clearance. As opposed to the first Intersessional Work Programme which involved six periods of meetings totaling six weeks in duration, it was agreed to two, one-week, periods of meetings be held. To further enhance active participation in the work of the Standing Committees, "it was recommended that those States in a position to do so consider making voluntary contributions to have additional languages made available for the intersessional meetings.

[27] Final Report, UN Doc. APLC/MSP.1/1999/1.

[28] Final Report, UN Doc. APLC/MSP.2/2000/2; States Parties have since been encouraged to use the optional "Form J", especially to report on such matters as victim assistance and funding of mine action, cf. Final Report of the 3rd meeting of States Parties in Managua from 18 to 21 September 2001, UN Doc. APLC/MSP.3/2001/1.

[29] cf. Report of the Secretary-General: Assistance in Mine Action, UN Doc. A/57/430, par. 53

[30] At the 3rd meeting of States Parties in Managua and the 4th meeting of States Parties in Geneva (September 2002).

[31] http://disarmament.un.org/MineBan.nsf or http://www.mineaction.org.

[32] For the 2001 reporting period, for which reports had to be submitted on April 30, 2002, 17 States Parties have not yet submitted their reports. 33 States Parties were late in their submissions. Reports for the calendar year 2002 will have to be submitted at the latest on April 30, 2003.

[33] cf. Article 144 of the 4th Geneva Convention of August 12, 1949.

[34] cf. also the SG's good offices under the UN Charter.

[35] cf. Article 36 of the ICJ Statute.

[36] Article 8, paragraph 1 of the MBC. The Verification Research, Training and Information Centre, and independent NGO has published a "Guide to fact-finding missions under the Ottawa Convention", intended to assist states parties in preparing for fact-finding missions under Article 8 of the Mine Ban Convention: Angela Woodward, Guide to fact-finding missions under the Ottawa Convention, London 2003.

[37] Article 8, paragraph 4. One third of the States Parties have to be in favor of such a Special Meeting. During this procedure any of the States Parties concerned may also request the Secretary-General to exercise his or her good offices to facilitate the clarification

[38] Article 8, paragraph 8.

[39] Article 8, paragraphs 9 and 10.

[40] cf. as a reference to this issue in public international law: Ian Brownlie, Principles of Public International Law, Oxford 1998, p. 703.

[41] Report of the Secretary-General, United Nations Mine Action: A Strategy for 2001-2005, UN Doc. A/56/448/Add.1. The strategy builds upon the United Nations policy on mine action (cf. UN Doc. A/53/496, annex II).

[42] Information, emergency response, assistance to national and local authorities, quality management, coordination and resource mobilization, advocacy.

[43] Mine awareness and risk reduction education; mine clearance, including survey, mapping, and marking; victim assistance; destruction of stockpiled anti-personnel landmines; advocacy.

[44] The IACG is chaired by the United Nations Mine Action Service (Department for Peacekeeping Operations), which is the Organization's focal point for mine action.

[45] cf. UN Doc. A/53/496, annex II, par. 44.

[46] cf. Report of the Secretary-General: Assistance in Mine Action, UN Doc. A/57/430 par. 7: "The United Nations calls for the universalization of all international legal instruments dealing with landmines."

[47] e.g. the United States announced at the Plenary Session of the 57th General Assembly that it would provide approximately US$ 100 Million in 2003 for humanitarian mine action and underlined that it is a "strong supporter" of Amended Protocol II and a proponent of expanding its scope of application to Anti-Vehicle mines, cf. Press Release #198 (02).

[48] e.g. Finland, cf. International Campaign to Ban Landmines (ed.), Landmine Monitor Report 2002, New York 2002, p. 650.

[49] Russia declared in the 57th General Assembly on agenda item 28 Assistance in mine action" on 15 November 2002: "The prohibition, use, stockpiling and transfer of antipersonnel mines should become the ultimate goal of the international community". It further expressed its confidence that "this goal should be pursued gradually, step by step, while ensuring the largest participation of states in Protocol II of the 1980 CCW", which it considers to be a "thoroughly balanced instrument" that "addresses States' security and self-defense interests" (unofficial translation of the speech of the Deputy Permanent Representative of Russia to the United Nations, distributed by the Permanent Mission of Russia to the United Nations).

[50] International Committee of the Red Cross (ed.), Anti-personnel Landmines—friend or foe?, Geneva 1996, p. 65.

[51] A student of the John F. Kennedy School for Public Affairs raised this question during a series of lectures organized by Assistant Secretary-General Sorensen, which his class attended at the United Nations Headquarters on January 7, 2003.

[52] Report of the Secretary-General: Assistance in Mine Action, UN Doc. A/57/430, par. 51.

[53] The United Nations are currently developing mine action guidelines for ceasefire and peace agreements.

[54] cf. Human Development Report 2002.

[55] Ivor R. Fung, L'universalité et le renforcement de la convention d'Ottawa: le rôle de l'Afrique, Bamako 2001. The text can be obtained at http://www.unrec.org/eng/Contact.htm

[56] Past activities of UN-LiREC in this area have included: 1) the monitoring of the destruction of stockpiled anti-personnel mines in Peru and Chile; 2) the organizing of a regional workshop on the International Mine Action Standards (IMAS); and 3) the rendering of assistance in the organization of the Third Meeting of the States Parties to the Mine-Ban Convention.

[57] Andorra, Austria, Bahamas, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Bulgaria,

Burkina Faso, Canada, Croatia, Denmark, Djibouti, Equatorial Guinea, Fiji, France, Germany, Grenada, Holy See, Honduras, Hungary, Ireland, Jamaica, Japan, FYR of Macedonia, Malawi, Mali, Mauritius, Mexico, Mozambique, Namibia, Niue, Norway, Peru, Samoa, San Marino, Senegal, South Africa, Switzerland, Trinidad and Tobago, United Kingdom, Yemen, Zimbabwe. Turkmenistan has not yet reported.

[58] Under-Secretary-General Jayantha Dhanapala at the noon press briefing at United Nations Headquarters on February 27, 2003.

[59] http://www.mineaction.org/misc/dynamic_overview.cfm?did=93.

[60] Some prefer the term Unexploded Ordnances (UXO).

[61] UN Doc. CCW/GGE/III/1, Annex II.

[62] UN Doc. CCW/MSP/2002/2, par. 21.

[63] UN Doc. CCW/MSP/2002/2, par. 22.

Coordination in Mine Action—Challenges and Opportunities

by Martin Barber

In this article I will highlight some of the challenges and opportunities of working on coordination and policy development in mine action within the United Nations system, as well as vis-à-vis non-governmental organizations ("NGOs"), local governments and political actors. I will also briefly touch upon some of the most immediate tasks ahead in this field for the United Nations and its partners.

The United Nations has been involved in the coordination of humanitarian mine action since 1989 when the first coordinated humanitarian mine action programme was initiated in Afghanistan. Mine Action work at the United Nations has come a long way since then. The United Nations mine action teams of the United Nations Mine Action Service (UNMAS), the United Nations Development Programme (UNDP), and the United Nations Children's Fund (UNICEF), now operate in thirty-five countries and focus on a wide range of activities including: making sure that affected countries have a clear picture of how and where mines impact the most civilian populations through comprehensive Landmine Impact Surveys; developing and implementing mechanisms to meet mine action requirements in emergency situations; responding to requests from national governments to build local mine action capacities; ensuring that the highest quality and safety standards are applied during mine clearance operations; advocating in support of the universalization and implementation of two major international instruments: the Antipersonnel Mine Ban Treaty (Ottawa Convention) and the Convention on the Prohibition of Certain Conventional Weapons.

The United Nations Mine Action Service was established in 1997, within the Department of Peacekeeping Operations, to provide a focal point in the United Nations to deal with the policy and operational aspects of the landmine issue. UNMAS is charged with the coordination of all aspects of mine action within the UN system, and is responsible for ensuring an effective, proactive, and coordinated response to mine contamination worldwide. UNMAS is also responsible for providing mine action assistance in the context of humanitarian emergencies and peacekeeping operations. UNMAS' work is guided by two important documents, both of which have been approved by the General Assembly and are reflected in the yearly resolution issued on this matter by the GA. These documents are: "Mine Action and Effective Coordination: The United Nations Policy," and the "United Nations Mine Action Strategy 2001-2005" (A/56/448/Add.1), which is a road map of the United Nations

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work in this field for this five-year period. All major United Nations agencies, including UNDP, UNICEF, United Nations High Commission for Refugees (UNHCR), World Food Programme (WFP), etc. participated in the course of 2001 in a complex process that led to the identification of six major strategic goals and over forty specific objectives to be achieved and timelines for completion for each of them. The latest Report submitted by the Secretary-General to the General Assembly on assistance in mine action at its current (57th) session (A/57/430) reports on progress achieved against this strategy.

The United Nations mine action teams of UNMAS, UNDP and UNICEF, now operate in thirty-five countries and focus on a wide range of activities.

A review of the Resolutions establishing current and previous peacekeeping operations indicates how the mine action issue is relevant in many different contexts. I will just recall a few here: freedom of movement for peacekeeping troops, humanitarian workers and local civilian populations; transit and return to areas of origin of displaced populations as is the case in Angola, Afghanistan and has been the case in Cambodia; post-conflict reconstruction efforts, including agricultural recovery, or infrastructure building, as is the case in Afghanistan; and as a "tension-reducing step", as demining activities along the buffer zone in Cyprus are referred to by the Security Council (S/Res/1034/1998). This list illustrates that mine action work requires more than just technical expertise to be effective. Mine action work has significant political implications, and it is no accident that conflict and post-conflict situations are the environments within which mine action programmes are usually initiated.

By virtue of its unique combination of technical, humanitarian and military dimensions, mine action can draw interest and commitments from a wide range of actors. At the headquarters level, UNMAS deals on a daily basis with non-governmental humanitarian and advocacy organizations such as, the International Committee of the Red Cross ("ICRC") and the Nobel Peace Prize Laureate International Campaign to Ban Landmines, as well as, with operational mine action NGOs, technical governmental agencies, the military, and the defense private sector interested in producing and selling specialized technology. In the field, in addition to the entities mentioned, there are blue helmets or international coalition troops, local authorities and warring factions, and partner UN and NGO humanitarian agencies. The challenges faced trying to pull it all together are quite remarkable, but so are the benefits.

I will now discuss a few observations on how we endeavour to make relationships with our partners effective. Lessons learned in the set-up, implementation and transition to national authorities of mine action programmes are crucial, as these programmes rely on cohesion of all partners and strong political backing of donor

governments, local authorities and warring factions. And they must closely liase with the national military and any international forces involved on the ground.

In the mine action world, we have learned that support comes only with well cultivated relationships which are sustained over time. Support is also made possible where *both* UNMAS, if at Headquarters, or the MACC (Mine Action Coordination Centres), if in the field, *and* the other party clearly see the added value in providing rather than with-holding support, in keeping each other regularly up to date of significant developments rather than just occasionally based on the crisis of the day, and in discussing actions and designing programmes in partnership rather than separately. Relationships then are not ad hoc sporadic contacts, but continued efforts that—to put it simply—need to "go both ways".

In working on coordination, we have applied concepts, borrowed from the humanitarian world, which use agreed upon standards and establish clear mechanisms to spell out the terms of the relationship. In 1998, an Inter-Agency Coordination Group on Mine Action was established. The IACG draws membership from all relevant United Nations agencies and departments and provides a forum to prioritise activities, discuss ongoing operations, and identify unmet needs. The Steering Committee on Mine Action expands this group to include representatives from key NGOs and international organisations.

We have found that applying internationally recognized standards and processes drawn from the best practices in mine action around the world, helps to raise the confidence of the communities that the mine action partners are assisting. It also provides the additional and significant benefit in the medium-term of elevating local mine action capacities to international standards of quality. Unfortunately, these efforts are not always appreciated. Recently in Eritrea, the Government asked several international NGOs to cease humanitarian de-mining operations and to leave the country, on the grounds that their work was too slow and too expensive. Safe mine clearance operations are inevitably slow, since they must ensure that every single mine is located and destroyed.

Lessons learned in the set-up, implementation and transition to national authorities of mine action programmes are crucial, as these programmes rely on cohesion of all partners, strong political backing of donor governments, local authorities and warring factions.

I will now discuss some of the most immediate tasks ahead for the United Nations in the field of mine action. We have been asked by the General Assembly to review the five-year United Nations mine action strategy in the course of this year and we will focus on this between April and June. At the time of writing, the prospects of a possible military conflict in Iraq are being discussed at the Security Council. We are putting our best efforts, along with the rest of the UN humanitarian

agencies, to be ready should such an eventuality occur. We have spent significant energies in 2002 to finalize a Rapid Response Plan, and if the occasion requires it, we will be ready to put it into practice. The programme in Afghanistan, which saw great expansion in the course of 2002, will require continued efforts to sustain and expand its current levels of operations. New programmes, in countries that do not enjoy the limelight of prime time news will also continue to require significant backstopping and guidance. We will conduct evaluations of some of our programmes in order to draw both lessons and best practices. The United Nations Development Programme will give special attention to the study of transition from international to national ownership of mine action programmes.

Safe mine clearance operations are inevitably slow, since they must ensure that every single mine is located and destroyed.

The year 2002 saw quite dramatic developments in the mine action field. In Afghanistan and Angola, probably the two worst mine affected countries in the world, the political scene has changed for the better; mine laying activities have stopped, and both governments have acceded to the Convention. In Sudan, UNMAS signed, in the margins of the Fourth Meeting of States Parties to the Mine Ban Treaty, an agreement with the government and the SPLM (Sudan's People Liberation Movement). The Democratic Republic of the Congo and Cyprus also acceded to the Antipersonnel Mine Ban Convention in recent months. All of these remarkable and positive developments oblige us to do more work with the same resources. Being able to rely on productive and effective relationships with our partners will be all the more critical in the months to come.

Defining Terror

by Jonathan Weinberger

INTRODUCTION

In this new age of callous terror and so-called *jihad*, the citizens of the United States have once again earned the titular designation of our nation. The events of September 11th have touched each and every American in a substantial emotional, spiritual, and intellectual manner. Republicans, Democrats, Blacks, White, Jews, Christians, and Muslims have all united for a common cause: the eradication of unscrupulous a-religious 'zealot' fanatics whose goal it is to exterminate the Western infidels, their way of life and the capitalist economic and political model that has helped create what many regard as the greatest nation in the history of the world.[1] However, even as most agree upon our mission, many don't agree on what to call it. Is this truly a *war* on terrorism? In order for the United States and its allies to combat the scourge of terrorism and terrorists, a universally accepted definition of those terms is essential. Many have an understandable knee-jerk emotional reaction when hearing or referring to terrorists or terrorist acts. Loosely, terrorists are known as violent, anti-social activists that kill, maim and destroy civilians for political or religious motives.

While this definition of terrorism may limply relay the defining aspects of terrorism, it remains too simplistic with many dire and unintended circumstances. In fact, many federal agencies and international organizations have differing definitions of terrorism. To many, one person's terrorist is another's freedom fighter. How does one draw this important distinction? How does one fight this enigmatic entity without proper definition and purpose? Most importantly, how does the United States proceed in its *war* on terrorism without an acceptable agreement on definitions? Additionally, without this definitional consensus, how can the United States create military tribunals and use other para-military or 'para-war' paradigms when executing the necessary actions against those who maintain vitriolic hatred towards the West, the Jews, Christians, and Americans as a whole and will use force to push their agenda of exceedingly misplaced knowledge and twisted interpretations of religion and antediluvian ideologies of selfish hatred? The answers are not simple, and will take quite some time to work out. This article will provide light on an important and severely unsolved issue in international law, in order to start a broader and more constructive debate on such a timely and sensitive issue.

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THIS IS NOT A NEW STRUGGLE

The attempt to define and contain terrorism is an ancient struggle and even a biblical debate. "During the ancient Judean zealots' struggle against Roman occupation of Palestine (around 67-73 C.E.), a movement known as the *sicarii* began an indiscriminate war against its enemies."[2] In this massive revolt against Rome, the *sicarii* and zealots, both known as terrorist elements to each other, and their followers "would assassinate their less zealous co-religionists with short swords (*sicarii*) during the religious holidays."[3] After destroying the house of the High Priest, and burning the palaces of the Herodian dynasty, and torching the public archives and granaries, as well as poisoning the wells in Jerusalem,[4] the conflict ended in a spectacular mass suicide at Masada, as recorded by Josephus, a moderate Jewish commander who became a Roman supporter.[5] Josephus' prolific and sometimes questionable narrative remains the most useful primary source of any terrorist campaign prior to the nineteenth century.[6]

The attempt to define and contain terrorism is an ancient struggle and even a biblical debate.

Thomas De Quincy, an English Romantic and widely regarded as the first student of terrorist movements, suggests that the *Sicarii*'s organized and created ability to produce panic or paralyzing fear, citing Josephus' vivid account of how the *Sicarii* first became known, is the first recorded instance of terrorism.[7] The *Sicarii* were murderers who carried short daggers under their clothing and stabbed their enemies when the latter least expected it. After many murders and clever tactics leaving them virtually anonymous, most *Sicarri* expected an untimely death.[8]

Later came varying forms of terrorists and new forms of terror. "In the eleventh century, a sect of the Ismaili Moslems, the Assassins (named for their dependence on hashish as a stimulant for indiscriminate violence), attacked several leaders of the Crusades, including Conrad, the Christian King of Jerusalem."[9] Many of the Ismaili Moslems would have considered themselves political prisoners of a sort, fighting for an ultimate freedom. "Ecumenical in their murderous zeal, they also struck twice (and missed) Saladin, the Moslem hero in the era of the Crusades."[10] Like Al Qaida, Abu Sayaf, and others, the Assassins always operated in complete secrecy. The terrorist fighters, otherwise known as Fidaiin, were disguised as strangers or even Christians.[11] Like the *Sicarii*, the Assassins used the dagger, never poisons or missiles, in part because the dagger was considered a safe weapon, but primarily because murder was a sacramental act.[12] Similar to Al Qaida and Hamas, the Assassins courted death and martyrdom. Others that may add their names to the list of the founding fathers of terrorism include the Thugee of India, who strangled their victims with silk scarves, the Boxers of China, and the Ku Klux Klaners of the United States.[13]

However, the term of *terrorist* arguably did not arise until 1798, when the supplement of the Dictionnaire of the Academie Francaise attempted to include the term simply as "systeme, regime de la terreur."[14] According to a French dictionary published in 1796, the Jacobins had on occasion used the term when speaking and writing about themselves in a positive sense; after the 9th of Thermidor, "terrorist became a term of abuse with political implications."[15] The term spread to Britain where Burke wrote about the French as terrorists during the period of the French Revolution, thus branding them with a new term of art.[16]

However, it wasn't until almost a hundred years later when systematic terrorism again began to emerge. In the second half of the nineteenth century, Russian revolutionaries fought an autocratic government in 1878-1881 and again in the early years of the twentieth century.[17] Later, more groups followed suit. "Radical nationalist groups such as the Irish, Macedonians, Serbs or Armenians used terror methods in their struggle for autonomy or national independence."[18]

Further, there was the anarchist *propaganda by the deed*, mainly during the 1890s in France, Italy, Spain, and the United States.[19] Hence, the inevitable question of how terrorism differs from anarchy arises. As many different forms of terrorism propagated in various countries, the origins were all connected to the rise of democracy and nationalism.[20] Although many of the grievances of the minorities, the under-represented, and outcasts existed before the ideas of *terrorism*, the spreading of enlightenment and the increasingly powerful notions of nationalism seem to have provided the conditions for more terrorism.

The problem still remains with defining such acts as *terrorism* in order to prosecute certain heinous crimes.

The problem still remains with defining such acts as *terrorism* in order to prosecute certain heinous crimes. "Whether terrorism should be treated primarily as an international crime or should be viewed mainly as a political problem [which may have international criminal elements] has been debated by the international legal community for years."[21] One may ask about domestic crimes such as the Oklahoma City bombing, or the bombing of the U.S.S Cole. Are these crimes terrorism? While most would agree that these are terrorist acts, the definition remains elusive. Some "have argued that terrorism can be objectively defined through the utilization of the currently developed standards in the arena of international human rights, belligerency, extradition, and other related legal arenas."[22] Many problems lay in the formation of a standard definition as "those in power see any attempt to change the status quo by military means as a terrorist manifestation."[23] Note that many would insinuate the use of military force as a legitimate use of power, whereas any sort of non-military use of force or violence can be considered a form of terrorism. On the other hand, "many newly independent states and radical political movements remain concerned that the label of terrorism will be used to discredit legitimate national liberation movements, as well as social and

economic revolutions."[24] The origins of force in such instances further confuse the defining and categorization and prosecution of terrorism.

AN ATTEMPT TO DEFINE THE UN-DEFINABLE

The necessity to define terrorism has never been as evident as it is now. The United States and its coalition partners must have a common understanding in order to wage a proper *war*. Also, the rules governing a war on terrorism will highly depend on what *terrorism* means. The definition that will ultimately be agreed upon will affect military tribunals, operations in countries other than Afghanistan and international and domestic relations. Yet, "terrorism clearly resists universal definition."[25] Cultural, political and religious biases strongly affect any suggested definition. One commentator suggests, "[t]he question of definition of a term like terrorism cannot be detached from the question of who is the defining agency."[26] Terror and the acts of terror can easily been seen as positive (and hence not terrorism) or negative (and hence terrorism), depending on the perspective. Because of the subjective nature of the concept, "any definition of terror and terrorism is, of necessity, an arbitrary one, the primary purpose of which is to establish a point of reference or departure for further discussion."[27] It is with this admonition that a myriad of definitions have been suggested by world governing bodies.

After 1795 the French first defined terrorism as:

> *"…The systematic use of terror or unpredictable violence against governments, publics, or individuals to attain a political objective. Terrorism has been used by political organizations with both rightist and leftist objectives, by nationalistic and ethnic groups, by revolutionaries, and by the armies and secret police of governments themselves.[28]*

In 1938, the League of Nations attempted to give terrorism a more globally accepted definition. In this Convention for the Prevention and Punishment of Terrorism, the definition agreed upon was "all criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons or a group of persons or the general public."[29] Although seemingly simple and comprehensive, there may be many more interpretations of fear related to widespread terror. Further, that definition ignores acts against civilians and not the state per se.

The Tokyo Convention of 1963 first addressed the issue of a specific crime that may constitute terrorism. That crime is seizure and interference with aircraft, or in other words, hijacking. Later, the Hague Convention of 1970 officially made it an offence for any person on board an aircraft in flight that uses force or the threat of force or intimidation, or attempts to seize or gain control of the aircraft, or is an accomplice in such an act.[30]

In 1972, the United States submitted to the United Nations General Assembly a Draft Convention for the Prevention and Punishment of Certain Acts of International Terrorism. "To supplement the value-laden term *terrorism*, this draft

used a neutral but vague term: 'an offense of international significance.'"[31] Definitions throughout history are abound with vagaries in order to both encompass and exclude certain convenient violations which would brand the very drafters or drafting countries as terrorists themselves.

Terror and the acts of terror can easily been seen as positive or negative, depending on the perspective.

In response to this 1972 definition, the UN established an Ad Hoc Sub-Committee to devise an operative definition of *terrorism*.[32] In order to incorporate all possible interpretations of terrorism, the UN Subcommittee tried to include as many acts as possible that could be established under this definition. Some of the types of acts include acts of violence by those in power against populations struggling for political liberation, which arguably permits militant groups such as Hizbollah and the Spanish ETA to claim that state countermeasures used against them constitute terrorism. Another act included by the Subcommittee is state assistance to terrorist activity directed against sovereign states.[33] The problem with this addition is the use of the phrase *terrorist activity*, since *terrorist* is the very word being defined. Other acts include violence endangering or taking innocent lives or jeopardizing fundamental freedoms, and acts of violence committed for private gain, the effects of which extend to other states.[34]

Since this attempt in 1972, there have been many more attempts to coin an accepted definition. In 1976, the European Convention on the Suppression of Terrorism drafted a series of articles attempting to define terrorism.[35] In 1979, the United Nations passed the International Convention Against the Taking of Hostages, which symbolized yet another example of the need to redefine crime and terror in a modern age when fear is used as a powerful weapon. In 1984, two statutes were created domestically, which seemed to supplement the international anti-hijacking and hostage taking agreements. The Hostage Taking Act and the Aircraft Piracy Act were aimed at combating the rise of terrorism and facilitating law enforcement and U.S. jurisdictional reach against extraterritorial violence. The Destruction of Aircraft Act was also passed to supplement the Hostage Act and the Piracy Act.[36] Further, the United States passed the Anti-terrorism Act in 1990, to expand extraterritorial jurisdiction yet further.[37] The attempt to create certain crimes internationally and domestically has long been a vehicle for the enforcement of so-called terrorist acts.

In 1991, the United Nations General Assembly issued *Measures to Eliminate International Terrorism*,[38] which served merely to call attention to the consequences of international terrorism. There was no law or treaty suggested or created. In 1996, the Inter-American Declaration to Prevent, Combat and Eliminate Terrorism also drafted a document recognizing the threats and declaring their willingness to combat such behavior. Again, there was no definition, laws or treaties created or even suggested. In 1996, a Plan of Action on Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism was drafted to bind signatories to the combating

of terrorism, but still left the actual definition of what they all agreed to combat as vague as ever. In 1997, the Convention on the Suppression of Acts of Nuclear Terrorism had signatories condemn all criminal acts involving nuclear means. A definition of nuclear terrorism was also suggested and signatories were to cooperate to develop reliable measures to prevent future terrorist acts. Also in 1997, the International Convention for the Suppression of Terrorist Bombings addresses yet other specific criminal acts and their gravity and potential consequences on governmental order. [39]

Terrorism is condemned, but not defined.

In 1999 the United Nations perhaps made its most valiant attempt to codify terrorism as an international crime. In a UN resolution, the participant nations would "strongly condemn all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomsoever committed."[40] Again, terrorism is condemned, but not defined. The resolution

> [R]eiterates that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them.[41]

What if a criminal act is done for the sake of being criminal and furthering an agenda and not necessarily attempting to create widespread fear per se? The UN resolution provides no answer. It does not describe what it condemns.

SO TO WHAT DO WE TURN?

Even the governmental institutions of the United States are not sure how to define terrorism. According to the State Department's report on world terrorism in 2000, "no one definition of terrorism has gained universal acceptance."[42] So the State Department uses Title 22 of the U.S. Code, which defines terrorism as "Premeditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents, usually intended to influence an audience."[43] What about religiously motivated violence? What exactly is a sub-national group or clandestine agent? Could that be a Freemason? To what does audience refer? Does audience mean only the ones who witness the particular act of violence? U.S. Law 104 302 from 1996, states "a federal crime of terrorism is a crime calculated to influence or affect the conduct of government by intimidation, or coercion or to retaliate against government conduct."[44] This arbitrary language leaves some of the same interpretational questions as the previous definition accepted by the State Department. In order to clear some of the uncertainty U.S. Law 100 204 was passed in 1997. This law indicated that, "the term terrorist activity means the organizing and participation in a wanton or indiscriminate act of violence with

extreme indifference to the risk of causing death or serious harm to individuals not taking part in the hostilities."[45] This raises the question whether the United States and other major western nations are themselves terrorist nations as they dropped bombs on civilians killing tens of thousands of innocent civilians in World War II and other wars.

The League of Arab States added their contribution to the definitional debate at the Arab Convention for the Suppression of Terrorism. There, terrorism was defined as

> *[a]ny act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or places their lives, liberty or security in danger, or seeking to cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardize a national resource.[46]*

This definition is seemingly much more comprehensive, but is inconsistent with other suggested definitions. Article 2(a) was added to include that "all cases of struggle by whatever means, including armed struggle, against foreign occupation and aggression for liberation and self-determination, in accordance with the principles of international law, shall not be regarded as an offence."[47] This addition seems a bit disingenuous, since it is an overt attempt to prevent the Palestinian struggle against so-called Israeli occupation being defined as terrorism. Yet under this language, any violent rising up by any ethnic group in the United States or other similarly situated peoples is legally justified.

The United Kingdom attempted to create its own version of the definition in the United Kingdom Terrorism Act of 2000: "The use or threat of use of action designed to influence the government or to intimidate the public or a section of the public for the purpose of advancing a political, religious or ideological cause."[48] The European Union later added a proposed definition that a "deliberate attack by an individual or group against a country, its institutions or its people with the aim of intimidating them and damaging or destroying their political, economic or social structures."[49] Former Israeli Prime Minister Benjamin Netanyahu also has added his own definition to the literature. He claims "terrorism is the deliberate fear and systematic assault on civilians to inspire fear for political ends."[50] This definition would, for example, exclude the bombing of the U.S.S Cole, as the bombing was aimed against a military target. However, while many of these definitions may seem air tight, the question remains, why even within the United States can we not agree upon one definition in particular?

Along with the State Department definition, the Federal Emergency Management Agency's definition includes the use of illegal force or violence "for purposes of intimidation, coercion or ransom,' but does not require it to be politically motivated."[51] This adds a whole new realm of crime to the potential *terrorists* repertoire. Additionally, the FBI looks to the Code of Federal Regulations definition. The

language includes, "the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives."[52] Again, there is no mention of religious objectives, and here there must be *both* force and violence in order to qualify as terrorism under the FBI definition. The FBI has used this definition to label domestic groups such as the Earth Liberation Front as terrorists. This group has taken responsibility for destroying millions of dollars worth of property that was violating their ideas, but the group claims to be nonviolent and avoids hurting people.[53]

With almost all of the proposed definitions, political motivation is a common thread. Whether it is Netanyahu's definition or the European Union's, terrorism involves a political dimension. This dimension has been a major obstacle in efforts to combat terrorism. "Insofar as these efforts have been successful, they have downplayed the political elements of the problem by focusing on those aspects of terrorist acts that warrant their being treated as crimes." [54] This refers to crimes such as hijacking, hostage taking, sabotage and other internationally accepted illegal activity. When a state is involved in such a criminal act as a sponsor or supporter, the problem cannot be treated as a matter of criminal law, but is instead a matter of internal public law concerning the maintenance of international peace and security.[55] Further, there are many difficulties when states are involved, not to mention that the terms *state support* and *state sponsorship* are almost as difficult to define as terrorism itself.[56]

The Department of Defense has added yet another suggested definition to the already clouded and arbitrary attempts to define the seemingly un-definable. The Pentagon suggests that terrorism is "the calculated use of violence or the threat of violence to inculcate fear…"[57] Yet the use of military force is also a calculated use of violence to inculcate fear and destruction. Fear is a necessary element in military actions or even in the doctrine of anticipatory self-defense. The Pentagon definition states that the fear must be "…intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological."[58] How does this differ from the use of legitimate military force legal under the law of war? The answer is not entirely clear. In fact, as one judge noted, "we have cause to regret that a legal concept of terrorism was ever inflicted upon us. The term is imprecise, it is ambiguous and above all, it serves no operative legal purpose."[59] This confusion is quite evident when the government agency running the military aspect of the *war* on terrorism has different definition from other agencies, like the State Department and the FBI.

The Department of Defense's definition was undoubtedly carefully crafted and sculpted by legal wordsmiths. The definition attempts to distinguish between terrorism and other kinds of violence. Also, the specific acts of terrorism are separate and distinct from the motivation behind the acts.[60]

According to the Terrorism Research Center, terrorist violence comes as a result of many causes and the tendency to generically label such acts that we do not

approve of, as terrorism is erroneous because terrorism is a specific kind of violence.[61] According to the Center, terrorist violence is a sort of psychological warfare. Motivation must be taken into consideration when labeling certain violent acts as terrorism. For example, "terrorism is common practice in insurgencies, but insurgents are not necessarily terrorists if they comply with the rules of war and do not engage in those forms of violence identified as terrorist acts."[62] Unfortunately, this definition is a tautological argument, defining terms with the very same terms attempting to be defined.

CAN 'TERRORISM' BE CONSIDERED JUST WAR?

As previously mentioned, while terror directed at civilian and non-military targets is largely condemned, some nations regard those same acts as the noble efforts of *freedom fighters*. Nations like the United States and its allies see certain acts as terrorism, whereas other nations would deem such acts as *just war*.[63] Violence is seen as a necessary means by the struggling *groups and self-proclaimed crusaders*, and is therefore "absolved from the customary restraints on the use of violence employed in their struggle."[64] This suggests an even deeper chasm between various suggested definitions of terrorism.

Nations like the United States and its allies see certain acts as terrorism, whereas other nations would deem such acts as *just war*.

Just war theory otherwise known as *jus bellum*, has much to say about terrorism. The father of international law, Hugo Grotius suggested, "*Just* causes were defense, recovery of property, and punishment."[65] Recovery of property, as in the Israeli-Palestinian conflict is certainly controversial, and punishment as a concept is no justification per se for war or retaliation. Grotius added, "Unjust causes included the 'desire for richer land,'" and the "desire to rule others against their will on the pretext that it is for their own good."[66] Like colonialism in the 19th century, this last thought would fly in the face of many democratic social programs that impart control over the destitute and infirm, supposedly for peoples own good.

Like many terrorists, religion was used to define the methods, intention and causes of a *just war*. Early notions of war in the context of international law are the result of Christian philosophy. Wars against infidel non-Christians were categorized as just.[67] Under a similar philosophy, Al Qaida and the Taliban have waged, what they regard as just and legitimate war against what they have defined as infidel non-Muslims. Christian theologians such as Franciscus de Victoria raised questions about just war worried about the rise and expansion of imperial powers.[68] "When a belligerent's cause was deemed to be *just*, God was on its side, and military action on its behalf became the instrument's of God's will and retribution."[69] Therefore, in the case of wars having to with the defense of Christianity, humanitarian laws of

war, or *jus in bello*, could be put aside. The progressive Franciscus de Victoria stated:

> *Sometimes it is lawful and expedient to kill all the guilty. The proof is that war is waged in order to get peace and security. But there are times when security cannot be got save by destroying all one's enemies: and this is especially the case against unbelievers, from whom it is useless ever to hope for a just peace on any terms. And as [sic] the only remedy is to destroy all of them who can bear arms against us, provided they have already been at fault.*[70]

Due to the inequality and lack of humanitarian standards of this type of warfare, the notion of just war was discarded after the Peace of Westphalia in 1648, where State practices gradually came to reflect Machiavelli's philosophy that all war is necessarily *just*.[71] "Consequently, the emphasis shifted from the justification for war to the means and its regulations."[72] This confuses the modern problem of discerning terrorism and war even greater.

As wars became more and more complicated and diverse in goal and method, the Geneva Convention of 1864 was passed to give guidelines in the treatment of wounded soldiers. Later, the First Hague Conference in 1899 added more international norms to help with the potential suffering of legitimate soldiers. Later, the Geneva Conventions of 1929 and 1949 also added new methods to sanctioned warfare. The last Geneva Convention "adopted an evenhanded approach to combatants."[73] *Jus in bello* took on a new form. In the Geneva Conventions, *jus in bello* was "based upon the principle that the law relating to the conduct of warfare and the protection of war victims [would] be neutral and that there [would] be an equality of treatment for the participants in a conflict."[74] The notions of just war were evolving along with the complexities of war and international politics.

When determining whether aggression can be defined as war or terrorism, the definitions of both must be solid and unwavering.

Later in the twentieth century, Article 2(4) of the United Nations Charter added yet another layer of war conduct, without taking into account acts of international terrorism. Article 2(4) suggested that member states undertake to "refrain in their international relations from the threat or use of force against territorial integrity or political independence of any State."[75] The use of force was not outlawed summarily, but carefully tailored to be lawful in certain circumstances. This put an end to the Machiavellian ideologies of war and "heralded a return to the Grotian distinction between just and unjust warfare."[76] Self-defense, while following the accepted guidelines of war, would remain the only vehicle of just war. Yet, how can we define self-defense in the context of terrorism and response?

When determining whether aggression can be defined as war or terrorism, the definitions of both must be solid and unwavering. "War can be classified in two

ways: (1) by the objectives sought in the war and (2) by the methods used."[77] The objectives and methods in question can easily blur the lines of terrorism used in many definitions. Warfare is based on immutable laws and principles that have been developed internationally throughout history. [78] "...[T]he methods of warfare vary according to the objectives sought, the means employed and the conditions that govern the era in which the war is being waged."[79] That has never been truer than in the post September 11th world. The costs of war and victory have significantly changed. Weapons, targets and methods have all changed. However,

> *The ultimate and sufficient requirement of military force is primarily defensive…it is not annihilative victories, superior technical or administrative means, more cohesive combat units, or physically superior combatants that secure victory in social warfare, but rather it is the ability to wear down the resolve of the populace of the targeted entity to continue the war.[80]*

This seems like one of the main objectives of the modern terrorist. It is the wearing down of the American resolve that the September 11th terrorists sought and continue to seek with their attacks on America and its allies.

Perhaps today, we have leapfrogged over the pre-conceived notions of *war* and *just war* and need to look at redefining war. It would not be easy to garner consensus on new definitions, affecting novel situations such as what to do with the *battlefield detainees* at Guantanamo Bay. Like terrorism, "the *just war*, or war of national liberation, is incapable of precise definition."[81] A cause is determined *just* only if two thirds of the United Nations agrees.[82]

Terms like *self-determination*, *alien occupation*, *colonialism* and *racism* are used by the UN to analyze *just war*. These terms are also difficult to define in the modern geopolitical landscape.

> *The right of self-determination can … mean different things in different contexts. It is all very well to speak of anti-colonialist struggles in Africa, but does a similar right of self-determination exist in the metropolitan territory of other countries? Was Biafra exercising a right to self-determination during the tragic Nigerian civil war? Was Bangladesh in its revolt against Pakistan asserting a right guaranteed it under the Charter? … It is quite clear that one man's war of national liberation is another man's war of national secession.[83]*

These questions can be expanded to Israel, Cyprus, Democratic Republic of Congo, Bosnia, Turkey and so on. In this age of uncertainty, will international law permit acts of terrorism that are directed at innocent civilian populations when committed by members of a *liberation movement*? Al Qaida, Hamas, Abu Sayaf and others consider themselves as liberation movements. Hizbollah has great admiration and support in Lebanon, whereas here they are considered one of the most dangerous terrorist groups.

While war is subject to rules of international law, terrorists generally recognize no such rules.[84] Whereas the law of war was set out in the Geneva and Hague Conventions, which in turn are based upon the basic principle that the deliberate

harming of soldiers during wartime is a necessary evil, and thus permissible, the deliberate targeting of civilians is strictly forbidden.[85] "This normative principle relating to a state of war between two countries can be extended without difficulty to a conflict between a non-governmental organization and a state."[86] This would include political and religious insurgencies such as guerilla warfare, which is arguably a second form of warfare separate from terrorism.

This extension of the aforementioned normative principle distinguishes between military and civilian targets in war and would designate guerilla warfare as the deliberate use of violence against military and security personnel in order to attain political, ideological, and religious goals.[87] Terrorism, on the other hand, would be defined as "the deliberate use of violence against civilians in order to attain political, ideological and religious aims."[88] This still leaves many entities such as the United States government vulnerable to the terrorist label for supporting foreign political movements while only distinguishing means and motive. On the other hand maybe the laws of war should be amended to include new types of warfare that yield new types of combatants and novel wartime situations.

There has been some discussion of altering the laws of war to include forms of terrorism as legitimate activities.

There has been some discussion of altering the laws of war to include forms of terrorism as legitimate activities. The United States Department of State's definition of terrorism addresses the use of violence against non-combatants, whether they are civilian or not.[89] "However, this definition will not work in practice, as it designates attacks on non-combatant military personnel as terrorism."[90] Further, it may be inevitable that terrorists and their organizations can justify their actions claiming that they cannot be expected to attack only military personnel who are armed and ready for battle.[91] This would be a certain downfall for terrorists who rely on the element of surprise. "By narrowing the definition of terrorism to include only deliberate attacks on civilians, we leave room for a *fair fight* between guerillas and state armies."[92] This thought begs the question whether guerilla elements are exempted from terrorist status as long as they do not solely concentrate on acts against civilians. Does that mean that the FARC and the ELN in Colombia, the Basque separatists in Spain, the IRA, the Abu Sayaf in the Philippines and many others are not terrorists? Many would strongly disagree.

The State Department claims that with such a distinction "we set a clear moral standard that can be accepted not only by Western countries, but also by the Third World and even by some of the terrorist organizations themselves."[93] Do terrorist organizations agree on these moral standards? "When such a moral distinction is internationally applied, terrorist organizations will have yet another reason to renounce terrorism in favor of guerilla actions."[94] Yet it is difficult to see how the terrorist is concerned with weighing moral principles. "Due to its tremendous efficiency, terrorism is the natural tool for the very weak. It affords the absolute maximum

amount of power for the minimum expenditure of physical force."[95] Consequently, the physically weak turn to terrorist tactics to undermine the enemy. Cultural relativism will certainly play a role in the aforementioned issues as well as the complexities of international public law and the interpretation of the law of war with regard to terrorism.

"At the most abstract level then, terrorism meets the same basic criteria as war. It represents consciously selected force applied for a specific end."[96] The methods and intent must be measured to determine an internationally agreeable definition that will not encroach on the law of war. "Moreover, it employs kinetic, physical force to influence the enemy psychologically through the erosion of his will to continue to resist."[97] This modern terrorist tactic is a similar method in classical warfare. "As is war, this [physical force] is easily measured by the degree to which the cohesion of the targeted entity is affected."[98] Modern terrorists have proven they will go to any length for this psychological destruction. "In this way, terrorism represents a clash of wills between two contending parties."[99] This is a similar type of clash of will as in classical warfare. "If both parties employ force to resolve this clash of wills, and if both parties seek a political end through this conflict, then a state of war exists, and the terrorism used by either belligerent constitutes a form of war."[100] The confused notion of war and terror is precisely why the international community needs to look to redefine the confines of war and the appropriate behavior to conduct such a war and deal with its contemporary consequences.

OTHER LEGAL IMPLICATIONS OF TERRORISM

Due to the difficulty of the defining terrorism, international law and criminal law are easily misinterpreted or interpreted in a myriad of ways. "The dictates of humanity require that all forms of terrorism be subjected to international legal regulation, irrespective of whether terror emanates from a State or from a liberation movement."[101] That sounds logical, but as we now see, not very easy to facilitate. "Precise rules, with adequate machinery for enforcement, are the ultimate goal."[102] These rules and mechanisms are yet to be precisely defined and implemented in an internationally agreed upon manner. While Conventions on terror, such as the Geneva Conventions, are valid attempts to install mechanisms of enforcement, the actual definitions are still too arbitrary for any effective transnational enforcement. "This goal will not be furthered by a return to medieval doctrine of the *just war*, and the corollary that the *just* combatant is without restraint."[103] Again, the blurred lines between war and terrorism need to be furthered differentiated for the modern geopolitical agenda.

Another issue in enforcement is the distinction between a common crime and terrorism. "One factor is recognized in all acts commonly labeled *terrorism*."[104] Without a sound definition, the mechanisms of enforcement are arbitrary at best. Although this discussion may seem tautological at times, "[t]he act of terrorism constitutes a common crime under the municipal law of the territory (or of the flag

state of the aircraft or vessel) where it occurs."[105] But, terrorism is not defined as a specific crime per se. There is no violation of a common crime of terrorism. So, what distinguishes the common crimes of murder, larceny, kidnapping, assault and others from the identical crimes enacted and labeled terrorism? "Why are the bank robberies of the Symbionese Liberation Army called *terrorism* and the murders by the Manson family labeled as a 'crime?'"[106] Further, why is the attack against the U.S.S Cole terrorism and the racially motivated murders perpetrated in Chicago by the World Church of God considered a crime? Should it not be the other way around? "The distinguishing factor is the attempt by law enforcement officials to apply extraordinary procedures to the activities labeled, *terrorism*, while denying the need for extraordinary procedures in regard to the identical acts not labeled, *terrorism*."[107] The definition of terrorism and the distinction from a common law crime is due to the responses of criminal enforcement officials and not due to the nature of the specific crime.[108] "The definition was not determined by motive or direct effect, but by whether or not a political or general systemic significance perceived in an act by the law enforcement officials."[109] This leaves room for great subjectivity and therefore great disparity in enforcement and sentencing of such crimes.

This complexity leaves many to suggest that when defining terrorism, one must understand that it is not merely a set of acts by desperate groups. Acts of terrorism should require extraordinary measures in order to counterbalance such violence and intimidation. Some suggest that when putting a final definition on terrorism, "[l]aw enforcement officials are excluded, because as a group they have a less balanced view of the total interests of society, law enforcement being only one important interest of society."[110] There must also be other interests involved in the definitional process such as political, cultural and deterrence objectives.

Many international agreement and municipal laws have been passed in order to regulate and prosecute terrorist acts. However, due to various interpretations of international agreements and irrelevant municipal law, along with cultural opposition, makes these international attempts at a single definition even more difficult to accomplish. Due to all of the legal wrangling and different sources and perspectives of law, international agreement on terrorism is still not as close as one would like:

> *There seems little chance of terrorism being controlled on anything like a universal basis so long as international organizations or individual states are prepared to apply a double standard whereby they confer legality and respectability upon acts of violence that are committed by those with whom they sympathize, especially when they can be presented in the new language of the new international order that places self-determination and independence above any other principle or obligation.[111]*

The questions abound and multiply as the face of organized terrorism modernizes and morphs. The international community may be at a crucial point in the history of terrorism legislation, but even in the post September 11th era, there is still little chance of universality. "Nor can one expect the public to condemn such acts, when

the media describe them as heroic activities full of glamour, rendered yet more respectable by abandoning the term *murder* in favor of the legal term *execution*."[112] All one has to do is watch a Palestinian newscast, or even an American one from the perspective of the alleged terrorists to see why the hope for a single accepted definition may never be realized.

This complexity leaves many to suggest that when defining terrorism, one must understand that it is not merely a set of acts by desperate groups.

OTHER CONCLUDING THOUGHTS

As one can now understand, the chances of agreeing on an internationally recognized definition of terrorism are remote. Yet the consequences of such international schisms can be catastrophic to foreign affairs and the world order. The United States and its allies have a common goal of secure boarders, but not always a common interpretation of terrorism, its consequences and the results of such a struggle. The world is witnessing such a struggle in America's campaign against terrorism and our treatment and classification of what to do with, or even call, the prisoners at Guantanamo Bay. The United States and its allies cannot agree on a definition, and neither can the United Nations, nor can the governmental agencies within the United States itself.

The task of outlawing terrorism has been relatively easier than reaching an international agreement about the criteria in defining terrorism, a term referring to a wide range of politically related acts of indiscriminate violence carried out against innocent parties, or "soft targets," outside the arenas of the conflict.[113] The arenas of conflict apparently have to be altered as well. The community of international states has attempted to outlaw many forms of terrorism, such as hijacking, and harm to diplomatic personnel among many others, over the years. In fact, "[I]n its continuing war against terrorism, the community of nations has chosen not so much to concentrate on clarification of this ill-defined phenomena as in outlawing specific examples of terroristic conduct."[114] This has led to much confusion and international tension in the wake of September 11th. Due to this lack of agreement, "…the world community has demonstrated a remarkable readiness to condemn and punish as terroristic specified classes of politically related offenses…."[115] The problem remains that the punishments seem somewhat arbitrary due to the vast discrepancies in the interpretation of terrorism, its sources, how terrorism differs from common law and local statutory crimes, and whether a *terrorist* is really a legitimate freedom fighter. Some of the offences that the international community fundamentally agrees upon are those that are disruptive of essential international institutions, such as offenses against aircraft, or endanger international agents or other internationally protected persons, such as diplomats and United Nations personnel.[116] "The

designation of these selected classes of political criminality as being internationally proscribed imposes a duty on all cooperating nations…."[117] The level at which such nations will cooperate is also debatable depending on the particular interpretations of the definition of terrorism with regard to the laws of war. But, those ideologically cooperating nations should not only apprehend those charged with such conduct but also subject them to extradition or prosecution.[118]

Only time will determine whether the international community can agree upon a fair and all encompassing definition that will not only enforce and prosecute terrorism, but deter it as well. Let us hope that another horrific act does not have to happen before terrorism can be defined as a crime in and of itself and appropriate actions may be taken in this new world order which teeters on the prickly edge of peace, terror and war.

Notes

[1] Jonathan R. Weinberger, "Operation Ivory Tower," *The American Jurist*, vol. 18, no. 3, (November 2002): 12.

[2] Nicholas Kittrie, *International Crimes and Punishment*, (Submitted for Publishing) Part A, section IV, 34.

[3] Ibid.

[4] Ibid.

[5] David C. Rapoport and Yonah Alexander, *The Morality of Terrorism, Religious and Secular Justifications*, (New York; Pergamon Press, 1982), 13.

[6] Ibid., 14.

[7] Rappaport, *The Morality of Terrorism*, Religious and secular Justifications, 14.

[8] Ibid.

[9] Kittrie, *International Crimes and Punishment*, 34.

[10] Id.

[11] Walter Laqueur, *A History of Terrorism,* (New Brunswick: Transaction, 2001), 8.

[12] Ibid., 9.

[13] Ibid.

[14] Dictionnaire Supplement (Paris, an VII [1798]), 775.

[15] Le Neologiste Francais, quoted Aulard, Paris pendant la reaction thermidorienne et sous le Directoire (Paris, 1902), V, 490.   See also
 F. Brunot, Histoire de al langue francaise des origins a 1900 (Paris, 1937), IX, 871.

[16] Ibid.

[17] Laqueur, *A History of Terrorism*, 11.

[18] Ibid.

[19] Ibid.

[20] Ibid.

[21] Rosalyn Higgins, *The General International Law of Terrorism, Terrorism and International Law*, eds. Rosalyn Higgins and Maurice Flory, (London: Routledge, 1997), 21.

[22] Kittrie, *International Crimes and Punishment*, 35.

[23] Ibid.

[24] Ibid.

[25] Ibid., 36.

[26] J. Bowyer Bell, *Transnational Terror* (Washington, American Enterprise Institute for Public Research, 1975), 10.

[27] Donald J. Hanle, *Terrorism: The Newest face of Warfare* (Washington: Pergamon-Brassey's International Defense Publishers, Inc., 1989), 104.

[28] Dictionnaire Supplement, p.775. See also www.terrorsimfiles.org.

[29] 19 League of Nations O.J. 23 (1938) (never entered into force)

[30] Ibid., 776.

[31] Kittrie, *International Crimes and Punishment*, 36. See also UN GAOR 6th Comm., 27th Sess., Agenda item 92, art. 1 para.1, UN Doc. A/C.6/L.850 91972); See also Douglas Kash, 'Abductions of Terrorists in International Airspace and on the High Seas,' 8 Fla. J.Int'l L. (1993): 65-67.

[32] Kittrie, *International Crimes and Punishment*, 36.

[33] UN GAOR Ad Hoc Committee on International Terrorism, annex, at 5, UN Doc. A/AC.160/L.3/ Add.1 (1973); See also Kash supra note 32, at 67.

[34] Ibid.

[35] Ibid., 38.

[36] Carter and Trimble, International Law 3rd Edition, 773.

[37] Ibid., 765.

[38] Ibid. See note 36, at 41.

[39] Ibid., 51.

[40] UN GAOR 51/210 Measures to Eliminate International Terrorism (1999).

[41] Ibid.

[42] "Patterns of Global Terrorism," United States Department of State, (April 2001): P.vi.

[43] Title 22 of U.S. Code.

[44] U.S. Law 104 302 (1996).

[45] U.S. Law 100 204 (1997).

[46] League of Arab States: Arab Convention for the Suppression of Terrorism, Art. I(2) (29 May 2000).

[47] Ibid. Art. 2 (A).

[48] United Kingdom Terrorism Act of 2000.

[49] (Proposed) European Union Definition (2000).

[50] Benjamin Netanyahu, *Fighting Terrorism*, (New York: Farrar Straus Giroux, 1995), 81.

[51] http://abcnews.go.com/sections/us/DailyNews/strike_011011definingterror.html

[52] Id.

[53] Ibid., 2.

[54] John F. Murphy, *State Support of International Terrorism; Legal Political and Economic Dimension*s (London: Westview Press, 1989), 113.

[55] Ibid.

[56] Ibid.

[57] http://www.terrorism.com.terrorism/bpart1.html

[58] Ibid.

[59] http://www.ihro.org.pk/peaceandterrorism2.htm

[60]http://www.terrorism.com.terrorism/bpart1.html

[61] Ibid.

[62] Ibid.

[63] Rapoport and Alexander, *The Morality of Terrorism, Religious and Secular Justifications*, 77.

[64] Ibid.

[65] Ibid., 78.

[66] Ibid.

[67] Ibid.

[68] Ibid.

[69] Ibid.

[70] Ibid. See also de Victoria, De Jure Belli 48, id. at 1xvi.

[71] Ibid. at 79. See also, Niccolo Machiavelli, *The Prince*, (London: Alexander Moring, trans. Edward Dacres, 1929), 117.

[72] Ibid.

[73] Ibid.

[74] Ibid. See also, Baxter, *The Geneva Conventions of 1949 and Wars of National Liberation*, 57 Rivista di Diritto Internazionale (1974), 193, 199.

[75] Ibid.

[76] Ibid.

[77] Hanle, *Terrorism: The Newest Face of Warfare*, 57.

[78] Ibid., 97.

[79] Ibid.

[80] Ibid., 98.

[81] Rapoport and Alexander, *The Morality of Terrorism, Religious and Secular Justifications*, 89.

[82] Ibid., 90. See also, Graham, 'The 1974 Diplomatic Conference on the Law of War: A Victory for Political Causes and a Return to the "Just War" Concept of the Eleventh Century,' 32 Washington and Lee L. Rev. 25 (1975).

[83] Ibid. See also, supra note 80, at 195. See also, Baxter, 'Humanitarian Law or Humanitarian Politics? The 1974 Diplomatic Conference on Humanitarian Law,' 16 Harv. Int'l L.J. 1 (Wint. 1975).

[84] http://www.terrorism.com.terrorism/bpart1.html

[85] http://www.ict.org.il/articles/article.cfm?articleid=393

[86] Ibid.

[87] Ibid.

[88] Ibid.

[89] Ibid., 3.

[90] Ibid.

[91] Ibid.

[92] Ibid.

[93] Ibid.

[94] Ibid.

[95] Hanle, *Terrorism: The Newest face of Warfare*, 118.

[96] Ibid.

[97] Ibid.

[98] Ibid.

[99] Ibid.

[100] Ibid.

[101] Rapoport and Alexander, *The Morality of Terrorism, Religious and Secular Justification*s, 92.

[102] Ibid.

[103] Ibid.

[104] Yonah Alexander and Maxwell Finger, *Terrorism: Interdisciplinary Perspectives*, (New York: The John Jay Press, 1977), 122.

[105] Ibid.

[106] Ibid.

[107] Ibid.

[108] Ibid.

[109] Ibid.

[110] Ibid.

[111]Yonah Alexander, David Carlton, and Paul Wilkinson, *Terrorism: Theory and Practice*, (Boulder: Westview Press, 1979), 194.

[112] Ibid., 195.

[113] Ibid.

[114] Nicholas Kittrie, *The War Against Authority*, (Baltimore: The Johns Hopkins University Press, 1995), 214.

[115] Ibid.

[116] Ibid.

[117] Ibid.

[118] Ibid.

The Impact of September 11th on European Security and Defense Policy and Coercive Prevention: The German Perspective

by Michaela C. Hertkorn

INTRODUCTION

Upon entering office, the newly elected Bush Administration put issues such as missile defense on top of its foreign and security policy agenda.[1] However, given transatlantic discourse up to the attacks of September 11th, topics like the European Security and Defense Policy (ESDP) still seemed relevant to partners on both sides of the Atlantic. This paper shall argue that while the focus of conflict prevention lies in the prevention of the outbreak of violence, preventive diplomacy and its coercive elements also strive at preventing further regional escalation and the re-occurrence of violence. In that sense, conflict prevention is strongly linked with post-conflict peacekeeping. Transatlantic relations, particularly in the late 1990s, served as a context to organize and coordinate peacekeeping in the Balkans, with the European Union (EU) and the North Atlantic Treaty Organization (NATO) as the main diplomatic, political, and economic platforms in the absence of corresponding UN mandates.

How are transatlantic relations relevant to the topic of conflict prevention? Given European interest in institutionalizing conflict prevention within the bodies of the EU in the second half of the 1990s, they do matter. While there were intentions to incorporate conflict prevention within the Council of Ministers, today within the EU, conflict prevention is a strong focus of the EU Commission. To mainstream conflict prevention, cooperation between the High Representative of EU Foreign and Security Policy on the one side and the EU Commission on the other side seems necessary to successfully link issues of conflict prevention with the common foreign and security policy of the EU. Also, given peacekeeping missions within Europe, like the Balkans in the 1990s—be they more or less robust—the close coordination between allies, either within the EU or NATO, proved essential. While the Kosovo Force (KFOR) and Stabilization Force (SFOR) have been NATO

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missions, European or EU member countries contributed increasingly to peacekeeping throughout the Balkans, with the U.S. role decreasing as years went by. Transatlantic relations as an issue of real politik also mattered as to how non-EU NATO members,[2] such as Turkey, cooperated with non-NATO EU members, such as Sweden, in post-conflict reconstruction and peacekeeping in the former Yugoslavia.

It can be concluded that transatlantic relations are of relevance for how Europe and North America deal with humanitarian crises, such as large-scale intra-state conflicts or other global threats. Given September 11th, such threats arguably concern the global war against terrorism. Before September 11th changed parameters for transatlantic relations, U.S. presidential elections in November 2000 already had an impact on European-U.S., and in particular on German-U.S. relations.

This article will provide information, on how some European countries, specifically Germany, may have hoped for the EU to play a stronger role in conflict prevention in the 1990s, while establishing a common European foreign and security policy, including ESDP.[3] The paper will argue that Germany, by "hiding behind the EU," risks not fulfilling its responsibility as a crucial ally in the EU and NATO when it comes to the application of (coercive) preventive diplomacy, as in the case of Iraq. The paper will in this regard take recent developments in German-U.S. relations into account.

I. METHODOLOGY

Originally, this paper was based on research regarding the role of perceptions in bilateral relations, between Germany and the U.S. Corresponding research started in the summer 2000,[4] several months before the U.S. presidential elections in November 2000. The overall goal was, to examine conflict manifestations on multiple policy issues of global relevance and of mutual interest to both Germany and the U.S. Research focused upon U.S. expectations for its allies, such as Germany and other EU member states, to share more of the burden in crisis areas, e.g., the Balkans.[5]

Having analyzed German-U.S. relations in recent years, the following phases were identified: the *pre-Bush phase*, the *Bush phase*, and the *post-September 11th Bush phase*. Policy issues of particular interest generally concerned U.S. leadership, the role of NATO, and contributions by the EU and Germany.

    A.   During the *pre-Bush phase*, the following policy issues were addressed: the long-term stabilization in the Balkans and a common European foreign and security policy, including the European Security and Defense Policy (ESDP).[6] Relevant questions concerned U.S. expectations for Germany as an ally and partner in NATO and the EU, and German reflection of such expectations. The aftermath of Kosovo could be characterized by European uneasiness about U.S. dominance in contrast to U.S. uneasiness about European unwillingness or incapability to act without the U.S. in the Balkans.

B. The *Bush phase* lasted from presidential elections in November 2000 to September 11, 2001, including the two visits of President Bush to Europe in the early summer of 2001. The main case studies were missile defense and NATO enlargement. The following question was highlighted: would the "display of charm" by President Bush during his first European visits convince Europeans, *particularly the Germans,* about U.S. commitment to the world and continued consultation with allies about the importance of these issues?[7]

Before these visits, it seemed likely that the Bush Administration might need Germany in NATO, especially given Germany's long-standing partnership with France and its good relations with Vladimir Putin in Russia. However, this did not turn out to be the case: The Bush Administration was warmly welcomed by Spain and Italy, and Britain, once saddened about the end of the special Clinton-Blair axis, had already turned around. Furthermore, the sudden reconciliation between President Putin and President Bush on NATO enlargement and missile defense came as a surprise to German political elites—or rather disillusion. Having charmed Britain, Spain, and Italy, the core assumption needed to be changed: the Bush Administration could easily bypass Germany and France, the latter of which had worked closely with the U.S. in Macedonia. The continuing flare-up of anti-Bush and anti-American sentiment in German news and journals threatened to isolate Germany with regard to its relations to the U.S. This conclusion was already drawn in July to August 2001, and served as a starting point for further analysis post-September 11th.

Germany declared its post-World War II era over and NATO was confronted with its first case of collective defense.

C. The *post-September 11th Bush phase* began on September 11, 2001 when parameters defining transatlantic and German-U.S. relations changed one more time since the end of the Cold War. Issues of potential tensions, like the Kyoto Protocol, the Balkan syndrome, missile defense, or burden sharing, suddenly were not on top of the transatlantic agenda anymore. Germany declared its post-World War II era over and NATO was confronted with its first case of collective defense.

NATO had not yet officially declared it would renew its relationship with Russia. However, by fall 2001, "*NATO forever transformed*" became the major case study of this research project.[8] All former case studies could be subsumed under NATO's peace-enforcing, peacemaking, and peacekeeping roles. NATO has been a considerable player in Kosovo and Macedonia. It would be judicious to further relations with Russia and to

address the war against global terrorism. The September meeting of NATO Ambassadors in Poland of September 2002 further highlighted the ongoing transformation of NATO. How to keep NATO relevant and how to streamline its command structures in anticipation of further enlargement were an impressive prelude to the NATO Summit in Prague of November 2002. NATO's Transformation Declaration of October 6, 2002, stated NATO would go global where the threat was based on UN resolutions.[9] The U.S. proposal to create a NATO reaction force, which was agreed upon at NATO's November Summit in Prague, will clearly have an impact on EU rapid reaction forces. It might render European reaction forces almost irrelevant, since NATO reaction forces would cover both soft and hard power missions, including civil or humanitarian crisis intervention, peacekeeping, and fighting global terrorism. Germany is likely to be one of the unhappier countries about this development. While Britain had always perceived ESDP as being incorporated into NATO, Germany may have regarded ESDP as the ultimate soft-power alternative to NATO. Furthermore, France has always been suspicious about U.S. leadership in NATO.

What domestic constraints exist for Germany's current government coalition?

In the post-September 11th Bush phase, the following questions were relevant: what will happen to foreign and security policy, a potential source of conflict between Germany and the U.S., in the long run? Will German-U.S. relations be strengthened by September 11th? What can Germany contribute to a coalition against terrorism and a multinational peacekeeping force? What domestic constraints exist for Germany's current government coalition?

II. THE ROLE OF (COERCIVE) PREVENTIVE DIPLOMACY—FROM A GERMAN PERSPECTIVE

Figure 1 illustrates the concept of a wider field of prevention.[10] It refers to hard and soft power intervention and includes both short-term and long-term measures.

To be more specific, the model on the wider field of conflict prevention considers the following two types of potential activities by a variety of actors:

· First, short-term (military) intervention to stop violence or genocide and to enforce peace;[11]
· Second, long-term transformation of a conflict-habituated system into a peace system with a partnership culture.[12]

The two categories of potential activities pose challenges to actors dealing with conflict prevention. Using Bruce Jentleson's definition of coercive prevention, Jane

Figure 1
The Wider Field of ConflictPrevention : A Bipolar

Long Term
Transformation

Short Term
Intervention
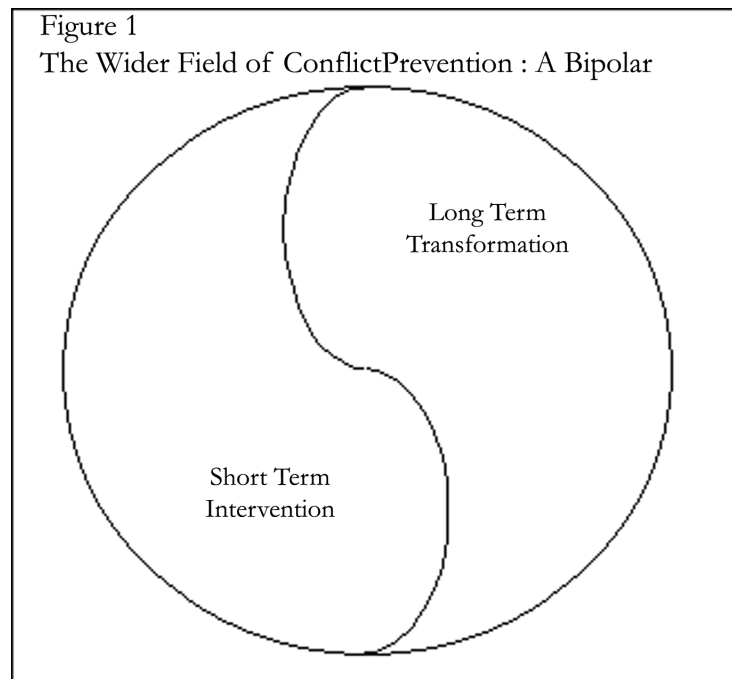
Holl presents a "model for preventing the re-emergence of violence", whereas the Institute for Multi-track Diplomacy (IMTD) presents a "model to transform conflicts".[13]   The two elements of intervention and transformation are linked in theory and practice; and according to John McDonald of the IMTD, "*the so-called exit strategy the U.S. military keeps talking about and looking for, will only work, when the departing U.S. troops are able to leave behind a peaceful community.*"[14]

Scholars and practitioners in international relations or conflict and peace research have highlighted a shift from the power politics of the Cold War era to acknowledging the relevance of human needs, while dealing with ethnic conflicts in the post-Cold War world.[15]   More than a decade after the end of the Cold War, an end of history did not come true. The end of a bipolar world did not usher in a new era of global consensus. While using the threat of force and considering its application as a last resort to prevent further escalation of violence, the reluctance of the international community to respond early to crises in Rwanda and Bosnia[16] showed the essential question to be how to get from early warning to early action.

The intervention in Kosovo to stop ongoing violence and to rebuild a war-torn society may illustrate that policy concepts focusing on human needs[17] and the long-term transformation of a conflict-habituated system may not necessarily be exclusive to realist policy approaches. The bipolar model supports this argument. In that sense, the impact of all violent conflict is such that it cannot be ignored. Means of real politick,[18] such as enforcement, and of non-violence, such as civil crisis management, may be two sides of the same coin.[19]

The Marshall Plan in post-World War II Europe allowed Germany to transform its political system while being safeguarded militarily by a strong U.S. commitment; this fact should make the reunified Germany a committed regional key player within the EU and NATO. Given the historical experience of a complex reconstruction process that comprised economic, political, and military elements, Germany has the potential to contribute more to complex crises and post-settlement peace processes.

The reluctance of the international community to respond early to crises in Rwanda and Bosnia showed the essential question to be how to get from early warning to early action.

For Germany, however, the contributions in question should not exclusively be economic or political. They also need to focus on the military dimension, which guarantees safety during and after interventions, as well as throughout a long-term peace process.[20] It is precisely the history of Germany[21] that enables it to play a constructive and active role with its allies in the context of NATO and other regional organizations.[22] With regard to a future role of the EU in crisis management, Ambassador Vos argued in 2000 that the U.S. Administration feared "a future division of labor between EU and NATO." Additionally, a crisis situation in Europe in which the United States was either "unable or unwilling to intervene in the aftermath of Kosovo seemed not unrealistic any more." It was also possible that "the U.S. is willing to take part, but on a modest scale only, leaving the Europeans to assume the lead." In the words of Vos, Europe "must be willing and able to shoulder that responsibility."[23]

During a speech in the German Bundestag on June 8, 2000,[24] designed to prolong German contribution to an international security presence in Kosovo, German Foreign Minister Joschka Fischer[25] stressed that it was "remarkable…how many Germans [German soldiers] in the meantime are actively involved on a community level, for example in the rebuilding of local administrations. A lot of them reported to United Nations Mission in Kosovo (UNMIK) and took over tasks in the civilian context and are assisting in rebuilding local administrative structures."[26] In addition, in spite of the difficulties, this was "an excellent commitment," which showed that a "complex approach of crisis management with regard to the military-civilian interface for the rebuilding of democracy and rule of law is imperative." Such a commitment also was a "precondition for the success of the Stability Pact in South Eastern Europe,"[27] which represented a "complex response of Europe following the crises and wars in the Balkans."[28] According to McDonald, a playground of a multi-ethnic kindergarten in Srpska Sarajevo[29] made by German SFOR troops was a concrete example of a well-functioning civil-military interface in practice. Unfortunately, the U.S. military was "not allowed this flexibility and is prevented from becoming involved in local community issues."[30]

Given this reality, a high degree of professionalization and specialization within

a modern army is vital. The challenges in question concern the establishment of security after an intervention and throughout a long-term reconstruction and peace process. Corresponding training[31] is also very important, and should include a variety of actors from both civilian and military organizations,[32] drawing upon the theoretical and practical expertise of those actors[33]. The closest possible cooperation between actors concerns the civil-military interface,[34] crucial in any post-settlement process. Additionally, in the immediate aftermath of military interventions to enforce peace, NGOs[35] seem to share "with members of the military community a commitment to service, a willingness to work abroad among the dead and dying and also an acceptance of significant risk in their daily lives."[36] A concerted and efficient safeguarding of peace throughout any reconstruction process is essential: "Aid group quits Kosovo as violence continues." For example, because of continuing violence, the Belgian branch of the humanitarian aid organization *Médecins Sans Frontières* (Doctors Without Borders) was "pulling out of Kosovo, accusing the international forces of failing to prevent 'ethnic cleansing'." It was more than a year since UNMIK and KFOR "took over the civil and military administration." Belgian teams of the medical relief agency, in charge of medical and mental health problems, were "eyewitnesses to the daily harassment and terror against the Serb minority in Vucitrn and Srbica and the ethnic Albanian minority in north Mitrovica."[37]

The closest possible cooperation between actors concerns the civil-military interface, crucial in any post-settlement process.

The following conclusions can be drawn concerning the wider field of conflict prevention. During the Cold War, two antagonistic superpowers determined foreign and security policy deliberations. Everything was overshadowed by the nuclear threat or weapons proliferation. Pacifism seemed to offer an alternative in such a dangerous environment, particularly for non-sovereign Germany occupied by Allied forces, divided and traumatized by the Holocaust and World War II. On the other side, the Brezhnev Doctrine[38] seemed to justify intervention by the Soviet Union within the territory of any one of its members, whenever forces hostile to socialism threatened its ideological alignment. In the post-Cold War era, NGOs seemed to have stepped into the vacuum,[39] left by an international system that may not yet have "the structures to cope appropriately with intra-state conflicts, like in Bosnia."[40] The intervention of NATO on behalf of the international community in Kosovo—given that the UN Security Council was blocked—can be interpreted as a breakthrough in this respect. It had the potential to change paradigms of foreign and security policy, as well as conflict and peace research. Consequently, in late spring 1999, British Prime Minister Tony Blair proclaimed a "bold new international doctrine that would justify outside military intervention in the internal affairs of governments such as Yugoslavia." His Doctrine of International Community[41] argued, "National

sovereignty is less important than human rights and preventing genocide." Acts of genocide could "never be a purely internal matter." Five tests for intervention were given: "First, are we sure of the case? Second, have we exhausted diplomatic options?" Third, were military operations sensible? Fourth, are parties prepared for the long term? Fifth, are national interests involved?[42] How could and should such an approach apply to the post-September 11th phase and to crises like Iraq?

In the aftermath of Kosovo, it seemed policy approaches in the context of preventive diplomacy should not be defined as the ultimate alternative to coercive means or military intervention in violent intra-state conflicts. The use of threat and its application as last resort seemed to *prevent further violence escalation* and genocide.[43] Consequently, the wider field of conflict prevention does include the use of threat or force. As explained before, it consists of short-term intervention to stop ongoing violence or to enforce the peace, as well as long-term peace building to transform a conflict-habituated system. More importantly, rather than, "Will we have to intervene everywhere?" the question becomes "Where does it make sense to intervene?" The use of threat and its application to end violence or safeguard a fragile peace settlement could be regarded as an intrinsic component to successfully prevent the widening of violent intra-state conflicts.

It seemed policy approaches in the context of preventive diplomacy should not be defined as the ultimate alternative to coercive means or military intervention in violent intra-state conflicts.

This seems to challenge the very roots of pacifism—particularly in Germany, where a coalition of Social Democrats and Greens ended up supporting NATO intervention in Kosovo, as Joffe pointed out in "*Where Germany Never Was*".[44] An article in the Washington Post read, "*Pacifist German Turns Hawkish on Serbs.*" Fischer was

> [O]nce a revolutionary and a pacifist. As a youth, he opposed the Vietnam War. But today, as German Foreign Minister, he argues passionately that for the first time since World War II, Germany has no choice but to use military force alongside its NATO allies to defeat Yugoslav President Slobodan Miloševiæ and his regime.

Fischer, who did not rule out the use of NATO ground forces in the Kosovo conflicts, argued "that fighting this war will help Germany overcome its reluctance to assert itself, a hesitancy that is a legacy of its Nazi past." Interviewed at NATO headquarters in Brussels, Fischer said, "Germans of his generation learned two lessons from World War II." One was never again war, the other never again Auschwitz. In Kosovo, Fischer concluded, "These two notions could not be reconciled." It was a contradiction, "but we have to live with it."[45] With regard to pacifism, Fischer argued that there were "other values than pacifism."[46]

III.   GERMAN-U.S. RELATIONS FROM PRE-BUSH PHASE TO BUSH PHASE

A. Emerging challenges and important questions by the end of the pre-Bush phase

   With regard to European-U.S. or German-U.S. relations, in the aftermath of Kosovo one major challenge for any U.S. administration seemed to be how to draw on the potential of Germany. Positioned at the heart of Europe, Germany seemed to have keys to U.S.-Russian and U.S.-French relations. It furthermore appeared Germany might be willing and able to use its influence to push Turkey to advance constitutional and democratic reforms. Continued U.S. leadership and commitment to Europe that acknowledges European sensitivities remains a prerequisite for a reunified Germany to mature into its growing role in Europe, notwithstanding the "Croatia-effect" that had left Germany isolated in the EU during the early Balkan crises. In that sense, a Europe fully safe and free, including Central and Eastern European countries, still remained a core American interest.

Europe's determination to enhance its own capability might unintentionally induce a reaction by the U.S. to become more unilateral.

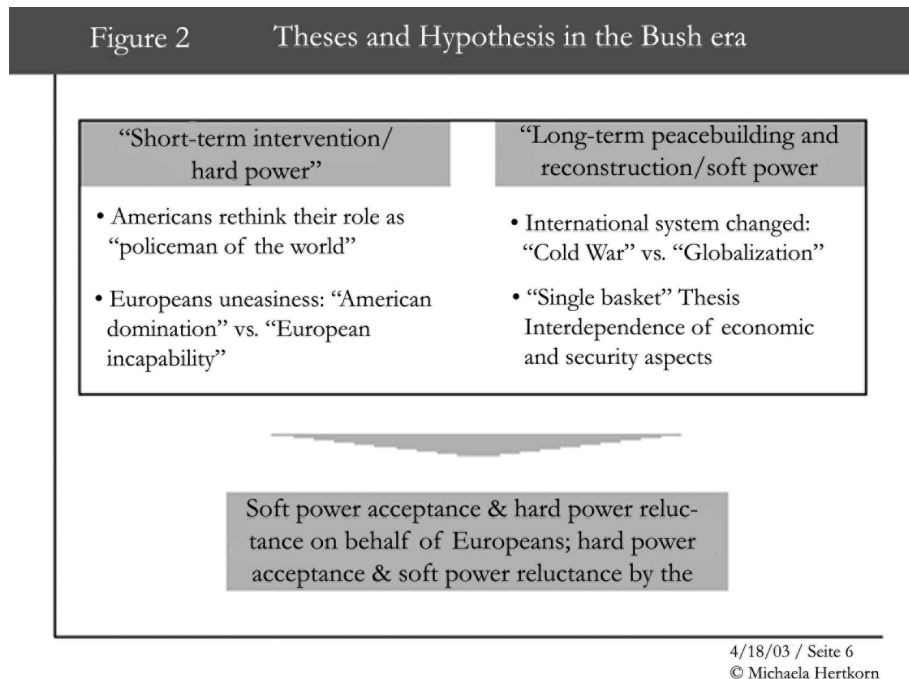*B. European-U.S. and German-U.S. relations in the Bush phase.*

   So, how had European-U.S. and German-U.S. relations developed from pre-Bush to Bush? By late 2000, after the presidential elections, U.S. Senator Biden already spoke of an unholy symbiosis, in which two seemingly unrelated developments on both sides of the Atlantic—that threatened to feed on each other—seriously jeopardized "the continued military engagement of the United States in Europe."[47] In the words of Antony Blinken, however, all talk about such "phony crisis in relations only makes it more difficult to tap the full potential of the transatlantic partnership."[48]

   According to Paula Dobriansky and David Rivkin,

> *The United States can and must maintain a first-rate military establishment capable of fighting and winning wars. President Bush articulated this fundamental truth in stating that the core U.S. strategic mission is to deter war by preparing to win swiftly and decisively.[49]*

   In the words of Angela Stent, Germany had understood that with regard to ESDP, "the NATO link is important, and that the Petersberg tasks[50] outlined by the EU are limited, since they still focus to a large degree on civil crisis management, and therefore on soft power."[51] As Mary Hampton sees it, Europe's determination to enhance its own capability might unintentionally induce a reaction by the U.S. to become more unilateral. Although it would be beneficial to enhance European capability, and readiness for civil crisis management and peacekeeping operations, this would raise the possibility that U.S. forces were unnecessary, thereby raising the unilateralist tendencies in the U.S. military. *The U.S. military was opposed to soft*

Figure 2   Theses and Hypothesis in the Bush era

"Short-term intervention/ hard power"	"Long-term peacebuilding and reconstruction/soft power
• Americans rethink their role as "policeman of the world" • Europeans uneasiness: "American domination" vs. "European incapability"	• International system changed: "Cold War" vs. "Globalization" • "Single basket" Thesis Interdependence of economic and security aspects

Soft power acceptance & hard power reluctance on behalf of Europeans; hard power acceptance & soft power reluctance by the

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power interventions, as humanitarian interventions and parts of peacekeeping missions, in contrast to hard power interventions, or "winning a war."[52]

Figure 2 illustrates this dilemma. It diagnoses an overall soft power acceptance, but hard power reluctance beyond some European countries, particularly Germany. On the other side, it highlights hard power acceptance, but a soft power reluctance by the U.S., the early hesitation by the Bush Administration to engage in nation building for example.

An important point of this paper is not whether there is a crisis in transatlantic relations or within organizations like NATO, but rather what are the challenges the transatlantic alliance faces today, how it can stay relevant, and how they may impact bilateral relations or attitudes.

In the aftermath of Kosovo, Europeans, and particularly Germans, discussed how military intervention by NATO could be avoided in the future. Upon entering power in fall 1998, the German government had made *conflict prevention and civil crisis management* core topics of its foreign policy.[53] The Kosovo experience also reinforced the realization (beyond European governments) that Europe needed to be able to act without the U.S., in case the superpower hesitated to engage in either peacemaking or peacekeeping. This led to the formulation of the Petersberg tasks. Whether the ESDP would strengthen a common European foreign policy, or if it would lead to stronger European commitment and contribution to NATO, was discussed intensively by Allies before President Bush entered power. It has reached unprecedented urgency and relevance post September 11th.

1. German Anti-Americanism and German/European Commitment to NATO

On the eve of Bush's first visit to Europe in the early summer of 2001, it finally looked like the administration had "sharply changed course on a series of foreign policy issues, stepping up U.S. involvement in several volatile regions while seeking to ease concern among allies about American unilateralism."[54] However, by late April 2001, the Economist had diagnosed an overall "souring of European opinion on the U.S."[55] Accordingly, the Washington Post reported that the "opening policies of the Bush Administration on the Balkans, missile defense, and global warming[56] infuriated many European leaders and convinced some that the new president was pursuing not closer partnership but American unilateralism."[57] European governments would "at times have their own political reasons to exaggerate U.S. bullying."[58] They were not, however, "imagining an inclination among some in the administration, to impose U.S. solutions while paying lip service to the value of American alliances." One of the lessons of the first 100 days was that even "at times of undivided U.S. power, a president must listen to the world if he is to lead it." American foreign policy in this era of globalization was shaped as much by "the pressures and demands of allies, trading partners, and adversaries as it is by domestic politics or decision making in Washington DC."[59] When Michael Steiner,[60] then Chief Diplomatic Aide to Chancellor Gerhard Schröder visited Washington, he was "surprised to find Condoleezza Rice, the National Security Advisor, telling him that he must be aware that the only way to get results from the Russians was to be tough with them."[61] Roger Cohen concluded[62] that this was one "small example of the ways in which the Bush Administration seems to be out of step in its thinking with a European Union disinclined to reopen divisions on the Continent and generally more concerned about the quality of food and the environment than possible security threats from Moscow or North Korea."[63] However, the same argument could be made that some European nations were out of touch with certain foreign policy aspects of the Bush Administration. Germany did not anticipate that the meetings in Genoa and Lubljana might warm up relations between Putin and Bush, nor did they predict what positive impact it might have regarding disarmament.[64]

In the aftermath of Kosovo, Europeans, and particularly Germans, discussed how military intervention by NATO could be avoided in the future.

Consequently, depending on how the Bush Administration handled issues, such as missile defense or global warming, the transatlantic relationship—and German-U.S. relations[65]—might become more problematic. It might in fact lead to more anti-Americanism than expected, given the fact that both sides cooperated well in the mid and late 1990s. On the other side, exaggerations by the Europeans concerning their rapid reaction forces should have been avoided as well.

Rhetoric by European allies and the absence of U.S. leadership might enhance a division of labor, with the Europeans focusing on civil crisis management and the

U.S. exclusively on collective defense. Such a divide would neither be healthy for NATO, nor appropriate for the given operational and structural needs of any complex peace process. Karsten Voigt, at the Auswärtige Amt in Berlin argued that, "NATO always has been about collective defense."[66] ESDP enabled the Europeans to build capacities "next to the Americans," stressing the Petersberg tasks. Most crises within European interest, such as the Balkans, needed "exactly that." He could not imagine a potential conflict in Europe where more hard power security was necessary, or where peacekeeping had escalated into peacemaking or full war. This question was of particular interest given crises in Kosovo and Macedonia through 2000.[67] It furthermore highlighted the continuing relevance of ESDP[68] and the long-term stabilization in the Balkans.[69]

The aftermath of Kosovo left Europeans with the uneasy realization that EU had not been capable—even if willing— to intervene in Kosovo without the U.S.

So could and would ESDP be more than a reflection of European uneasiness, after NATO had intervened in Kosovo?[70] Does it represent more than an attempt to counterbalance U.S. hegemony, particularly by France and Germany, while being theoretically faced with the challenge of coercive prevention?[71]

As Dutch Ambassador Joris M. Vos pointed out,[72] the aftermath of Kosovo left Europeans with the uneasy realization that EU had not been capable—even if willing— to intervene in Kosovo without the U.S. At the same time, it was apparent that the U.S. administration had faced serious difficulties a number of times in convincing Congress of the need for American intervention in European crises.[73] Strobe Talbot, former Deputy Secretary of State, poignantly described the American and European feelings about the ultimate verdict on Kosovo in a speech before the Royal Institute of International Relations in London:

> Many Americans are saying: never again should the United States have to fly the lion's share of the risky missions in a NATO operation and foot by far the biggest bill. On the other hand, many Europeans seem determined never again to feel quite so dominated by the U.S. as they did during Kosovo, or, for that matter, during Bosnia. In the next crisis—whatever, wherever and whenever it is—our allies want a say in the conduct of operations more nearly commensurate with the political onus that they bear in supporting the war. At least, no one, on either side, is complacent about the status quo.

2. Intra-European sensitivities

While European countries seemed to acknowledge the political and economic long-term challenges of a peace process—referring to the Stability Pact—certain countries like Germany still leave hard power security to the Americans. In the author's post-doctoral research of 2000-2001, this was characterized as soft power acceptance and hard power reluctance on the part of Germany.[74] In the case of the

Bush Administration, this could be paired with U.S. reluctance to soft power, peacekeeping, and nation building.[75]

Does the United States need to enter into dialogue on equal footing with other countries, particularly with its European allies? Do the Europeans finally have to match their ambitions with resources? In any given case, a strong U.S. leadership that does not ignore intra-European sensitivities[76]—meaning inter-European animosities and the incapability to speak with a common voice on the one side, and domestic constraints for national European governments on the other side—will be of benefit to the U.S. and its allies.

The Washington Post argued U.S. engagement with Europe remained critical to help stabilize Central and Eastern European countries. Europe's uncertainty about the future of its relationship with the U.S. meant that NATO expansion would never occur if the initiative was left up to Europe.

The plan of German Chancellor Gerhard Schröder for a stronger European federation raises another major question: To what extent does the continued reduction of its national sovereignty represent an attempt to avoid security-related challenges Germany faces as regional key player in Europe?

In other words, has conflict prevention and ESDP been regarded by the German government *as the ultimate soft-power alternatives to any hard power action (humanitarian or military intervention) in crises*, be it peacekeeping that is more robust by a coalition of the willing, either on the basis of a UN or a NATO mandate?[77]

In a speech at Georgetown University, Fischer stressed that further European integration was the "only logical consequence of Kosovo." If Europe was to develop a common European foreign and security policy and to act decisively together, further integration was the solution. However, can the reduction of national sovereignty achieve such a goal?[78] Given British and French reluctance to reduce their national sovereignty, the German proposal, though arguably creative, may not only be unrealistic, but also may increase distrust beyond its partners, even if the original intent of the plan may lie in Europeanizing German foreign policy. While it can be argued that Germany has been successful in pursuing its national interests within multilateralism, the reluctance to transparently formulate national interests, in addition to those of EU, may actually hinder trust building with its neighbors. An example of the clumsiness of German diplomacy is the government's last minute push of a German citizen to be the next director of the International Monetary Fund. Considerable challenges remain for post-reunification Germany concern political leadership, vision, and the recruitment of its political elite.

IV. European/German-U.S. relations in the post-September 11ᵗʰ Bush Phase

Given intra-European sensitivities, American commitment to transatlantic relations, which has been the foundation of a prospering Europe with Germany as one of its power centers, continued to be important in the post-September 11ᵗʰ era.

Figure 3

▶ To what extent will transatlantic relations be strengthened as a consequence of September 11th?

▶ To which extent are peacemaking/peacekeeping and nation-building interrelated?

▶ What impact will the anti-terror coalition have on the role of NATO and the EU? On Russia? On Turkey?

▶ What are the hard and soft power challenges to reunified Germany? The impact on German-Russian, German-Turkish, and German-French relations?

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With regard to such U.S. leadership, the following four scenarios had been envisioned in the pre-Bush and Bush-phases: *First*, the U.S. does not lead and the EU is either unwilling or incapable of acting. This was the case in Bosnia-Herzegovina in the early 1990s. *Second*, the U.S. leads and the EU is not capable of doing it alone or to contribute significantly. This was apparent during the intervention in Kosovo. *Third*, the U.S. assumes and claims its leadership role and the EU develops its own security and defense capabilities. This might be the British concept of ESDP, which stresses the need for ESDP not to decouple from NATO. Such an arrangement would very likely strengthen NATO and cause the transatlantic relationship to become more interrelated with further European integration. *Fourth*, the U.S. does not lead, and the EU continues to develop its own security and defense policy. This carries the risk of ESDP being perceived, at least by some European countries, as independent from NATO. Such a scenario might also lead to a sustainable division of labor between NATO and the EU. France has tried for many years to develop European hard power capabilities separately from NATO. Germany—with its strong pacifist tradition as a domestic constraint—may well have been tempted by ESDP providing an ultimate soft power alternative to NATO hard power collective defense.[79] *How would these four scenarios play out in a world after September 11, 2001?*

A. Questions about German-U.S. relations in the post-September 11th Bush phase
     In the aftermath of September 11th, Europeans and Germans asked themselves, "Are we all Americans?"[80] What would happen to the foreign and security policy

issues that had the potential to cause misunderstandings between Germany and the U.S.? Will German-U.S. relations be strengthened by the events of September 11th? What can Germany contribute to a coalition against terrorism and a multinational peacekeeping force? *What will happen to its concept or policy of (coercive) conflict prevention? Would it have to shift (more) from soft to hard power?* What domestic constraints exist for Germany's current government coalition? For the Germans, one challenge seemed to be clear: they had to acknowledge and shoulder more hard power responsibility. Ultimately after September 11th, Americans acknowledged their need for allies, and ever since then, expressed the wish for creating new alliances and strengthening old ones. The *U.S. National Strategy Report* published in September 2002 demonstrates this.

Germany—with its strong pacifist tradition as a domestic constraint—may well have been tempted by ESDP providing an ultimate soft power alternative to NATO hard power collective defense.

Another crucial question has been whether September 11th would strengthen European commitment in NATO, OR a common European foreign and security policy.[81] The fact that Turkey took over the lead of the International Stabilization Force in Afghanistan (ISAF) peacekeeping troops reflected the strengthening of NATO: Turkey is in NATO and not in the EU. After the Prague Summit of November 2002, it seemed NATO was strengthened further. The agreed upon creation of a NATO reaction force should lead to more European contribution to NATO. Figure 3 provides an overview of important questions that outline the context for current and future transatlantic engagement.

As the current debate on possible war against Iraq shows, these questions have not lost their relevance since the ultimate aftermath of September 11th. Regarding Iraq, the argument could be made that a NATO and EU member can definitively have an overall impact on the Alliance, as Germany influencing France, Russia, and Turkey. Nothing exemplified that more than the recent blockage of NATO over the delivery of defensive weapons to Turkey.

B. Core hypotheses in German-U.S. relations in the post-September 11th Bush phase

In research conducted for the Bush phase, the overall assumption was of a soft power acceptance but hard power reluctance by certain European countries like Germany. In contrast, while Bush argued during his presidential election campaign that the role of the U.S. army was exclusively to win wars rather than carry out peacekeeping, *such statement might likely prove unrealistic in post-Taliban Afghanistan. For any peace process, not only the war, but also the peace needs to be won.*[82] Figure 4 highlights the change in assumptions from the Bush to the post-September 11th Bush phase.

    The following conclusions could be drawn regarding U.S. leadership and a
German contribution as ally and partner in all three phases:

·   *During the pre-Bush phase*, the U.S. administration was pro-nation
    building in Bosnia and Kosovo. Germany, on the other hand, still
    showed a relatively strong anti-war attitude. Still, during the Kosovo
    intervention, Germany's Joschka Fischer struggled to draw a line between
    the principle of no more war against no more genocide;[83]

·   During the Bush phase, the new administration claimed to be against
    nation building and in early September 2001—just before the September
    11th attacks—even threatened to not favor the prolongation of NATO's
    mandate in Macedonia. Germany showed a relatively strong pro-
    interventionist attitude towards the crisis in Macedonia, even though
    Britain and France clearly took the lead then within EU;

·   *In the post-September 11th Bush phase*, the U.S. administration may not be
    able to avoid nation building in its global war against terrorism. For
    Germany, Gerhard Schröder offered military support to the U.S. and its
    war.

    To what extent Europe, and particularly Germany, would support the
    U.S. if the war stretched to other countries or lingered on, promised to
    be interesting throughout the post-September 11th Bush phase. Recent
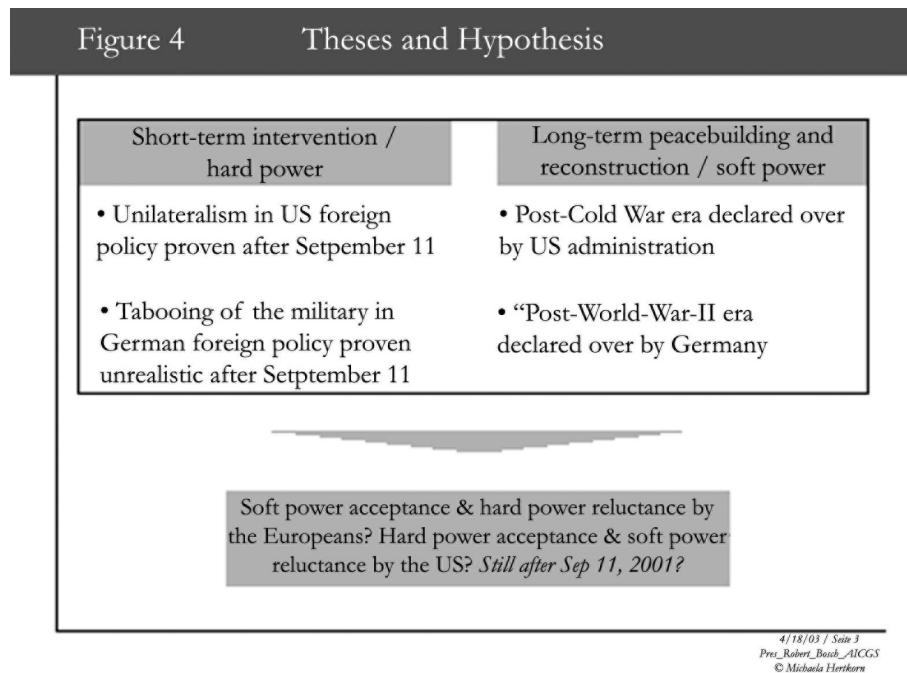   tensions on Iraq seem to confirm that assumption.

Bush argued during his presidential election campaign that the role of the U.S. army was exclusively to win wars rather than carry out peacekeeping.

C. German-U.S. relations with regard to Iraq

    German Ambassador Wolfgang Ischinger characterized the German-U.S.
relationship post-September 11th in the following way: "I cannot remember a time
when that relation was better." Upon arriving in Washington in July 2001, the
relationship had not been that good. "Your president was not given such a good
description in the European media. We were faced with many problems, like the
Kyoto protocol. After September 11th, I am faced with second-rate problems."[84]

    He has suggested to the U.S. administration: "Being a world power brings
many blessings. The question is not, how can you avoid to be hated, but how can
you soften things? Whenever you intervene, you will hurt somebody's interest. You
cannot avoid that. The recipe—from a German perspective—is: what you did in
post-World War II era in Germany and Japan. The UN was your creation. Use
them! Set good examples. You'll get maximum respect and maybe some love."

    This concerned the ultimate aftermath of September 11th. It is important to
stress that while Ischinger made these positive comments, the German government

Figure 4   Theses and Hypothesis

Short-term intervention / hard power	Long-term peacebuilding and reconstruction / soft power
• Unilateralism in US foreign policy proven after Setpember 11	• Post-Cold War era declared over by US administration
• Tabooing of the military in German foreign policy proven unrealistic after Setptember 11	• "Post-World-War-II era declared over by Germany

Soft power acceptance & hard power reluctance by the Europeans? Hard power acceptance & soft power reluctance by the US? *Still after Sep 11, 2001?*

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throughout December 2001 already provided contradictory signals. Germany's Social-Democratic and Green government coalition refused to take over the lead for the multinational peacekeeping force in Afghanistan. Berlin thereby frustrated not only Washington, but also London.[85] In early January 2002, German news was occupied by the resignation of Italy's Foreign Minister Silvio Berlusconi, which according to Fischer meant considerable damage to European integration, while Spanish Prime Minister José María Aznar showed full comprehension for the decision of Berlusconi. By late January, the "inhumane treatment" of captives in Guantanamo dominated German news. It was suggested that the "terror shock" had made the U.S. "blind towards the rule of law."[86] Bush's State of the Union address and Schröder's visit to Washington—to explain Germany's refusal to take the peacekeeping lead in Afghanistan—both dominated German media by the end of January. The "axis of evil" caused considerable cynicism in German newspapers and magazines. The *Süddeutsche Zeitung*, for example, expressed sympathy for the German Chancellor visiting Washington DC: "Poor Gerhard Schröder. It can't be easy being the first grumpy European to appear at the throne of the freshly appointed American Cesar."[87] "We won't be treated as satellites," cried Fischer, referring to Bush's stand on Iraq. Germany again expressed distress about U.S. hegemony and there was much talk about "NATO being badly damaged" and "the break apart of transatlantic relations."[88] In the U.S., a New York Times headline summarized international perceptions of Bush's State of the Union address: "Many in Europe Voice Worry U.S. Will Not Consult Them."[89]

Josef Joffe, a German journalist and an expert on Germany, provided the following diagnosis in an article of the German weekly *Die Zeit*: "Europe mobilizes against the U.S.: Germany's Joschka Fischer and his colleague, Rezzo Schlauch, hold the Americans responsible for their own—the Germans'—feeling of helplessness. Doing so, they reaffirm what they want to fend off."[90] Accordingly, *The Economis*t asked: "Must America soon decide whether to deal with terrorists and weapons of mass destruction in partnership with Europe, or alone?" The secret policy review of the Pentagon on nuclear weapons caused considerable alarm in Germany.[91]

During interviews in Berlin at the German think tank *Stiftung für Wissenschaft und Politik,* three of four experts on the U.S. shared the following view: "Global terrorism concerns the U.S., not Germany and not Europe."[92] Theoretically, a slightly different conclusion may have been drawn with the attack on German citizens in Djerba, Tunisia.[93] In another interview, the desk officer for the EU at the German Embassy in DC, expressed: "What concerns Iraq, we're just not playing as the U.S. wishes us to do!"[94] Israel[95] and Iraq clearly emerged as major conflict issues in the fourth phase[96]

By hiding behind Europe, Germany continues to "Europeanize" its foreign policy, thereby "Germanizing" the European Union.

In a speech by Lord Robertson at NATO headquarters in Brussels, he stressed, "NATO at 20" would go global, where the threat was.[97] The main impact of September 11th was NATO enlargement and the NATO-Russia Council. NATO as a diplomatic platform was transforming to face new challenges.[98]

While a representative of the German Defense Ministry concluded , "the review of NATO priorities was necessary,"[99] a representative of the Foreign Relations Committee to the German Bundestag criticized U.S. commitment to NATO: "Rumsfeld's statement 'the mission determines the coalition, and not the coalition the mission' *only* means that the U.S. is not supporting NATO enough."[100]

It is fair to conclude that perceptions of threat in Germany and the U.S. are very different. The political leadership in Germany has not articulated that Germany or Europe was at war or in a warlike situation. However, given the 3900 troops contributed to Enduring Freedom off the Somali coast, the 1200 that are part of ISAF, and the 600 German Amber Fox forces deployed in Eastern Afghanistan, this is problematic.[101]

Accordingly, in May 2002 Wolfgang Schäuble, German opposition politician, presented the following two long-term challenges for Germany post-September 11th: first, to convince the German public that there is a threat; and second, to *seriously* analyze what Europe and Germany could contribute.[102]

Bush's speech to the German parliament pointed out the threat to Europe: the terrorists knew the European map too. In non-provocative, but clear words, his message was basic.[103] The current German coalition government praise of the speech

may show that Bush helped prepare the ground for Germany's center-left government—with a strong pacifistic tradition—to sell the global war against terrorism, not only to the German public, but also their own party bases! In that logic, Foreign Minister Fischer commented on Bush's speech: "If Bush really connects development aid [as a tool of soft power security] with military force, than his speech truly was historic!"[104] Where did this leave German-U.S. relations early summer 2002?

One more development considerably changed the European political landscape and the transatlantic dialogue in May 2002: the shift of France to the right.[105] Schröder and Fischer lost their socialist counterparts in France. During one of the first meetings between French President Jacques Chirac and Schröder after French national elections, both leaders discussed the impact of NATO enlargement on EU matters. While Fischer may still regard himself as the voice of Europe,[106] Germany has in fact become more isolated. His concept of European integration is desired by no other European government. By hiding behind Europe, Germany continues to "Europeanize" its foreign policy, thereby "Germanizing" the European Union. A meeting of Chirac and Bush in Paris in May was portrayed as warm and very friendly.[107] Was France to be added to the Italian-Spanish-British pro-American axis in due course? In any case, Fisher's complaints about "Europe moving to the far right" seemed to reflect a certain denial of reality. By late June to early July 2002, the conclusion was w*hether German-U.S. dialogue could get new impulses, largely depended upon the upcoming federal elections in September.*[108]

The appeals of President Bush in Berlin for stronger German contribution had aimed at bridging the gap with German political elites. For a short while, it appeared as if a common understanding with the German coalition government could be reached, after Bush promised Chancellor Schröder that he would not to make Iraq an urgent foreign policy topic, before German federal elections in late September 2002. However, the situation eroded further when Schröder, ignoring the promise made by the American President, instrumentalized German fear of war against Iraq, turning around an otherwise lost election.[109]

The upheaval Schröder's stand on Iraq caused in America shows the world that the U.S. greatly values the opinions and support of its allies.[110] A proposal by President Chirac in early September 2002 to bridge the gap between the U.S. and European allies regarding Iraq,[111] as well as strong support by Prime Minister Blair, should have alarmed Schröder and Fischer. There was enough reason to assume that the U.S. might indeed have strong or sufficient proof that Iraq had been trying to obtain nuclear weapons and linking it somehow to Al-Qaeda.[112] Another alarming sign that Germany was on the road to isolation in the EU and NATO was how quickly Italy, Spain, and Poland turned around and declared support for the U.S.[113] Given the events of 2002, German foreign policy can best be described as very reactive to major global developments rather than pro-active.

German politicians are frequently surprised by developments around them. The proposition of Defense Minister Struck at a NATO meeting in Poland that suggested Germany take over ISAF leadership was six to twelve months late. The

Germans were taken off guard by Rumsfeld's proposal to introduce a NATO rapid stand-by force, which would limit prospects of an already under-financed EU rapid reaction force.[114] The news had reported that Rumsfeld planned a classified briefing for all U.S. Senators after Congressional leaders had breakfast with Bush, Vice President Dick Cheney, and National Security Advisor Condoleeza Rice. Anybody watching carefully concluded—one week before September 11, 2002—that the administration was about to start selling their case.

Such "Vogelstrauss-Policy" by the German government still continues, even while Germany tries to patch up things with the U.S. *Die Welt* reported, *"NATO General Secretary, Lord Robertson, worries about the relations between Berlin and Washington."* To fail to attend from the classified briefing by Rumsfeld at a NATO meeting in Poland, as German Defense Minister Struck did, and then to express that there was no new proof available, does not show the Germans take the situation seriously enough.[115] After a meeting with Robertson, Fischer declared accordingly: "one should not expect any change of policy on Iraq by the German government. Schröder and I have already made up our minds!"[116]

Things did not improve since the speech of President Bush in the German parliament in May 2002. Proponents of good transatlantic relations can only hope that the worst has already passed, or in the words of Rumsfeld: "who sits in a hole, should stop digging!"[117]

Whether or not relations were seriously damaged depends on one's own political point of view, which will highlight different aspects of the situation. What it will come down to is *credibility*. In that sense, the Bush Administration will not likely take Schröder seriously again. While Washington asked Berlin for support on their policy on Iraq shortly before Bush's last visit to Berlin in May 2002, Hans Ulrich Klose, foreign policy expert of Germany's Social-Democrats, declared in the *Hamburger Tagblatt*: "Attack on Iraq: Bundeswehr will be present." He was convinced the German army would participate, and that such an attack would not even need another UN mandate.[118]

With regard to the ability of the EU to act together, the example of the International Criminal Court (ICC) may illustrate perfectly how rapidly EU cohesion gives way to bilateral relations.

One unfortunate impact of troubled German-U.S. relations seems to have played out within the European theater itself. France has been complaining about the strong influence of Great Britain and has been arguing that the *EU could formulate its own common approach regarding Iraq, thereby isolating Great Britain.*[119] On the other hand, after Schröder did not succeed in getting Blair to help him restore German-U.S. relations, his focus seems to have shifted across the Rhine, in order to persuade France to join ranks to counter U.S.-UK policy on Iraq.[120] In any case, for Germany, an obvious and important question in the weeks and months to come is:

what will be the price tag for either British or French support vis-à-vis the U.S.?[121]

With regard to the ability of the EU to act together, the example of the International Criminal Court (ICC) may illustrate perfectly how rapidly EU cohesion gives way to bilateral relations. When the EU Commission threatened that Eastern European countries would endanger their future EU membership if they supported U.S. demands to provide ICC exemptions for its peacekeepers, they chose NATO membership and good relations with the U.S. over possible EU membership. Also Great Britain, Spain, and Italy granted the U.S. these exemptions, thereby breaking ranks with Germany. Along with Chris Patten of the EU Commission, Germany still insists the U.S. must submit to the ICC, even though, the German government had been discussing whether they should seek for exemptions for their own peacekeepers in Afghanistan. Recently, Europeans witnessed Chirac again threatening Central and Eastern European countries with regard to their future EU membership on the issue of Iraq and their support of the U.S. administration. It remains to be seen to what extent France and Germany will succeed in keeping their leadership roles in the EU.

It remains to be seen to what extent France and Germany will succeed in keeping their leadership roles in the EU.

While recent developments may have reinvented Germany as a problematic partner in the EU and NATO, this will have an impact on NATO transformation and the challenges outlined in its October 6, 2002 declaration.[122] The success of NATO enlargement, the streamlining of its operations, and the creation of a NATO reaction force will also depend on Germany as it is the largest European country.

German contribution as an ally and partner will matter as to how the alliance adapts to a new security environment, and whether NATO stays relevant. Close cooperation of allies in NATO and the EU will be necessary for hard and soft power intervention.[123] The ability of NATO to function as a platform for a coalition of those willing to support U.S. and UK policy in Iraq has already been weakened when NATO members Belgium, France, and Germany refused to provide Turkey with requested assistance.

A list of U.S. demands sent to Berlin in the fall of 2002 asked for German support of U.S. policy against Iraq, Turkish membership in EU, and creation of a NATO reaction force. This might have been an indication of how crucial the discussion of Germany's future contribution to the alliance is.[124] The message was very clear: Germany was given a second chance to prove its reliability at the NATO Summit in Prague. It seems unlikely that the German government used this chance to the satisfaction of the U.S. administration and other European allies, when it blocked the NATO decision-making process with France in February 2003.

The U.S. proposition to establish a NATO reaction force surprised Germany's Defense Minister. It counters Germany's concept and idea of ESDP as the ultimate soft-power alternative to NATO (peace-enforcing and peacemaking) interventions. For weeks, Berlin did not publicly agree to the plans. Official statements initially

did not go further than declaring the proposal "most interesting."

V. Conclusion

Germany has long been one of America's most dependable allies. For a while, it almost seemed as if Berlin might supplant London in a special relationship with Washington.

Germany's course to self-isolation in EU and NATO is not, however, new. Even before September 11th, the Bush Administration was successful in reaffirming Great Britain, Spain, and Italy—but not to German political elites—U.S. commitment to volatile regions in the world and continued consultation with its allies. The German government was reluctant and stunned by the sudden rapprochements around them, particularly between Putin and Bush.[125] Today, Germany seems to be isolated at least on two fronts: first, regarding its stand on Iraq; second, its concept of European integration is not desired by France, the UK, Spain, nor Italy. The recent deal between France and Germany regarding a (more or less) common policy on Iraq indicates that both countries may focus on finding common ground to pursue their national interests and on counterbalancing U.S. and British policy.

In summary, by hiding behind Europe, Germany still continues to Europeanize its foreign policy. Doing so, it uses the EU for its own national interest, with France or alone. *It risks to not adequately addressing soft and hard power security challenges as a sovereign member of NATO and the EU in the 21st century.* For its friends and partners, it is important to consider these circumstances in order to understand what they can expect from the re-elected German leftist coalition government.[126]

Throughout the Prague Summit, German media focused on whether Bush and Schröder would shake hands. The *New York Times* analyzed the Summit speech of President Bush and concluded: "Mr. Bush assailed nations that are 'inward-looking or isolated by indifference,' clearly a reference to Chancellor Schröder's use of his opposition to the American campaign against Saddam Hussein as a centerpiece of his recent re-election campaign…from John F. Kennedy's 'Ich bin ein Berliner' speech, to Ronald Reagan's controversial visit to the Bitburg cemetery, post-war American presidents have emphasized reconciliation and unity when speaking of Germany, not memories of war. This time, however, Mr. Bush seemed to be reminding Germans *that Europe today stood shoulder to shoulder with America despite them, not because of them.*"[127]

Notes

[1] "U.S. Weighing Future of Strategic Arms Pacts," *The New York Times*, May 9, 2001; "Rumsfeld Plan Skirts a Call for Stationing Arms in Space," *The New York Times*, May 8, 2001; "Bush's Nuclear Plan," *The Economist*, May 5–11, 2001.

[2] Either incorporated in or separate to NATO. The role of Europe's rapid reaction forces has to be mentioned in this regard, and most recent developments, which allow ESDP to use NATO assets (which arguably further strengthens NATO).

[3] Either incorporated in or separate to NATO. The role of Europe's rapid reaction forces has to be mentioned in this regard, and most recent developments, which allow ESDP to use NATO assets (which

arguably further strengthens NATO).

[4] Michaela Hertkorn, "Mutual perceptions between the U.S. and Germany on foreign policy issues," *AICGS occasional paper*, April 2001.

[5] See Michaela Hertkorn, *Why conflict prevention does not exclude the use of force* (Berlin: Mensch und Buch Verlag, 2002).

[6] Michaela Hertkorn, "The relevance of perceptions in foreign policy: A German–U.S. perspective," *World Affairs*, fall 2001,p. 70. With regard to a common European foreign and security policy, see Chris Patten, "The future of the European security and defense policy (ESDP) and the role of the European Commission," (speech presented at the Conference on the Development of a Common European Security and Defense Policy, Berlin, December 16, 1999), www.eurunion.org/news/speeches/991216cp.htm: "The Helsinki Summit has marked an historic breakthrough. The heads of government decided to give practical effect to the ambitions of the Amsterdam Treaty and the Cologne European Council Declaration. They decided to establish a European military capacity to undertake the full range of Petersberg tasks." See "Presidency Conclusions, Helsinki European Council," December 10 and 11, 1999, http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action; "Presidency Conclusions, Cologne, European Council," June 3 and 4, 1999, http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt; Joschka Fischer, "From Confederacy to federation—thoughts on the finality of European integration," www.auswaertiges-amt.government.de/6_archiv/2/r/r000512b.htm; Elizabeth Pond, "Kosovo, catalyst for Europe," *Washington Quarterly*, 22, Autumn 1999, p. 77; Charles A. Kupchan, "Rethinking Europe," *National Interest*, Summer 1999, p. 73; Noël Malcolm, "The case against Europe," *Foreign Affairs*, March/April 1995, p. 52; Joris M. Vos, "European common foreign and security policy: How common can you get?" (Speech at CGES, Georgetown University, Washington, DC, October 28, 1999). *Remark*: Germany's current social-democratic and Green coalition government in the aftermath of Kosovo, made conflict prevention and civil crisis management a core topic of its foreign policy. See web pages of German Ministry of Foreign Affairs, *Auswärtige Amt* in Berlin, www.auswaertiges-amt.de.

[7] "Bush Displays Plain Talk and Charm for Europeans," *The New York Times*, June 16, 2001.

[8] "NATO offers Russia new relationship," *The New York Times*, February 25, 2002.

[9] See NATO-Transformation Declaration, October 6, 2002, www.nato.int.

[10] Michaela C. Hertkorn, *Why Conflict Prevention Does not Exclude the Use of Force* (Berlin: Mensch & Buch Verlag, 2000).

[11] See George (1997), *Forceful Persuasion*. See part B. Concepts and Conflict Cases, I. Theoretical Discourses, 1.1.3. "How to address violent ethnic conflicts in the Post Cold War Era?"

[12] See Jentleson, *Opportunities Missed, Opportunities Seized. Preventive Diplomacy in the Post-Cold War World* (New York, NY: Rowman & Littlefield Publishers, Inc., 2000) .

[13] See Michaela Hertkorn, 2002.

[14] Personal interview with John McDonald, IMTD, Washington DC, spring/summer 1999.

[15] See Michaela Hertkorn, 2002.

[16] See Boyd, "Making Peace with the Guilty. The Truth About Bosnia," *Foreign Affairs*, September/October 1995, p. 22; Mandelbaum, "The Reluctance to Intervene," *Foreign Policy*, Fall 1994, p. 3.

[17] See Burton (1990), *Conflict Resolution and Prevention*, p. 15: Deep-rooted conflict included "cases of conflict with authorities between authorities, and among persons and groups within societies." They arose "out of demands on individuals to make certain adjustments in behavior that are unacceptable, and probably beyond human tolerance and capabilities. Symptoms of deep-rooted conflict"—and these were merely symptoms—included "hostage taking, illegal strikes, public protest movements, ethnic violence, terrorism, gang warfare, and many other forms of intractable opposition to authorities at one social level or another."

[18] See Legro and Moravcsik, "Is Anybody Still a Realist?" *International Security*, vol. 24, no 2, Fall 1999, p. 5; See Fukuyama (1992), *The End of History and the Last Man*; Langlois and Langlois, "Behavioral Issues of Rationality in International Interaction. A Game Theory Analysis," *Journal of Conflict Resolution*, vol. 43, no 5, October 1999, p. 626.

[19] See Zandee, *Building Blocks for Peace. Civil-Military Interactions in Restoring Fractured Societies* (The Hague: "Clingendael" Institute), September 1998, p. 5: "The history of conflict in the twentieth century can be broken down into three phases. World Wars dominated the first half of the century, the Cold War reigned for the next forty years, while regional wars characterized the last decade. Restoring the peace following intra-state conflict entailed nothing less than recreating or rebuilding a fully functioning society, a complicated process, which not only requires restoration of a state in a material sense. Ethnic cleansing,

atrocities and crimes against the civilian population caused tremendous psycho-logical damage. Distrust and fear are to be overcome. Without justice being done, peace does not last. This process takes years, demands patience and requires a careful approach. It incorporates many building blocks, such as restoring security, reestablishing law and order, reconstructing infrastructure and housing, recreating a functioning economy and installing a democratic government, all of which are crucial for the return of refugees and displaced persons." *Remark*: Holl highlights the three-dimensionality of any complex peace process. A personal interview was conducted with Holl at A.U.S.A, March 2000. See Schirch, *Keeping the Peace. Exploring Civilian Alternatives in Conflict Prevention*, October 1995; Seiple (1996), *The U.S. Military/NGO Relationship in Humanitarian Intervention*.

[20] See "Montenegro: In the Shadow of the Volcano," *ICG Balkans Report*, no. 89, March 21, 2000; "Montenegro: Avoiding the Fifth Balkan War," March 21, 2000, http://ww.usip.org; "Preventing Conflict in Montenegro," *USIP Peace Watch*, April 2000; "Montenegrin Says Belgrade Is Using Its Army," *The New York Times*, March 27, 2000; "Montenegro Vote is Make-Or-Break Time for Djukanovic," *CNN World News*, June 9, 2000, http://www.cnn.com/2000/WORLD/europe/06/09/montenegro.rallly/index.html; "U.S.A Warnen Belgrad vor Einsatz in Montenegro," http://www.zdf.msnbc.de/news/36542.asp; see "Macedonia. Prevention Can Work," *USIP Special Report*, March 27, 2000; "Last bust-up in Yugoslavia?" *The Economist*, January 29, 2000.

[21] See Hertkorn, 2002. *Remark*: In the words of Witte, German options for playing a strong foreign policy role did not grow in the absence of strong U.S. leadership in Bosnia-Herzegovina. By contrast, foreign policy options for Germany seem to be increasing, in the case of strong U.S. leadership in international (peacekeeping) missions.

[22] See Fischer, "Towards a New Transatlantic Partnership: The United States, Europe and Germany in an Era of Global Challenge." (Herbert Quandt Distinguished Lecture. The BMW Center for German and European Studies, Georgetown University, September 15, 2000). See Joffe (1999), "Where Germany Has Never Been Before," p. 52: "None other than the French calls America a hyper puissance whose power needs to be reduced by the harsh discipline of multipolarity. The reasons are: America is more needed than feared, and while carrying a Unipolar stick, it usually speaks quite softly. Not even the French have tried to forge a real countervailing compact, indeed, when the crunch is on, as in Kosovo in early 1999, the French without so much as a side-swipe joined the American-led alliance against Belgrade. What was observed though was the usual economic rivalry dating back to the 1960s, as well as a more recent phenomenon, that may be labeled psychological balancing."

[23] See Vos, "European Common Foreign and Security Policy: How Common Can You Get?" October 28, 1999.

[24] See http://www.auswaertigs-amt.government.de/6_archiv/2/r/r000608a.htm.

[25] See Lally Weymouth, "Pacifist German Turns Hawkish on Serbs," *The Washington Post*, April 11, 1999: Joschka Fischer once was "a revolutionary and a pacifist. As a youth, he opposed the Vietnam War. But today, as German foreign minister, he argues passionately that for the first time since World War II, Germany has no choice but to use military force alongside its NATO allies to defeat Yugoslav President Slobodan Milosevic and his regime."

[26] Remark: This concerns activities characterized by IMTD as structural peace building, and as structural prevention, in the definition of Carnegie Commission. See Michaela Hertkorn, 2002.

[27] See Stability Pact for South Eastern Europe, www.stabilitypact.org/pact.htm; Bugajski, "Problems of Balkan Reconstruction," August 4, 1999, www.csis.org/hill/ts990804bugajski.html; Steil and Woodward, "A European "New Deal" for the Balkans," *Foreign Affairs*, November/December 1999, p. 95.

[28] See http://www.auswaertiges-amt.government.de/6_archiv/2/r/r000608a.htm.

[29] See "Youth Leadership Adventure Comes To Fruition," *Peacebuilder*, vol. 1, no 4, Summer 2000, p. 11: "During its first round of a Youth Leadership Adventure in Bosnia-Herzegovina, thirty-seven Serb, Croat and Bosniak youth between the ages of seventeen and twenty-six implemented a variety of projects. A kindergarten, initiated by training participant Kristina Šešlija, could for example, not have been completed without German SFOR troops having laid the playground."

[30] *Remark*: Personal interview with McDonald at IMTD, Washington, DC in summer 1998 and spring/summer 1999.

[31] See Training von Zivilen Fachkräften für Internationale Einsätze, http://www.auswaertiges-amt.government.de/7_aw_amt/index.htm; *Managing Post-Settlement Transitions*, (training material, Alexandria VA, July 27–30, 1999); S. E. N. S. E. Synthetic Environments for National Security Estimates, (conference materials, July 27—30, 1999): The training brought actors of various tracks

together, to brainstorm on necessary adjustments in training for post-conflict reconstruction and peace building. Representatives of government, NGOs, international organizations, academia, financial institutions and the military participated. The training highlighted challenges for the civil-military interface. See Olsen and Davis, "Training U.S. Army Officers for Peace Operations: Lessons from Bosnia," USIP Special Report, Washington, DC, October 29, 1999: "National debates fuelled by the recent U.S. military experience in Bosnia produced a series of lessons that ranged from force protection to civil-military implementation strategies." These lessons should "inform U.S. military policy for its present deployment in Kosovo." One of the most important lessons to emerge from the Bosnian experience was "the need to refocus the training and development of senior military leaders for participation in peace operation."

[32] See "U.S. Acts on Kosovo Misconduct Report," *BBC News*, September 19, 2000, http://news.bbc.co.uk/hi/english/world/americas/newsid_931000/931873.stm: The U.S. Army ordered "changes in the way its soldiers are trained after a report found that American peacekeepers have beaten civilians and indecently assaulted women in Kosovo." See "Reign of Terror," *TIME.com Europe*, September 26, 2000: Even before the U.S. Army released its report into the abuse of civilians by GIs in Kosovo, the word was out: "A tiny knot of American soldiers harassed and assaulted Kosovar civilians because the troops had prepared for war and had not been adequately schooled in peace-keeping." The investigation was ordered by General Eric Shinseki, the Army chief of staff, after Staff Sergeant Frank Ronghi had been charged with raping and murdering a Kosovar Albanian girl in January." See Results of 15-6 Investigation. Unit Climate and State of Discipline. Within the 3rd Battalion, 504th Parachute Infantry Regiment, Task Force Falcon, Kosovo Force, (obtained at the Public Relations Office, Pentagon, Arlington VA, October 15, 2000).

[33] See Michaela Hertkorn, 2002.

[34] See Pirnie, *Civilians and Soldiers. Achieving Better Coordination* (Santa Monica: RAND), http://www.rand.org/.

[35] *Remark*: Throughout much of the Kosovo intervention, NGOs delivered humanitarian assistance to internally displaced people.

[36] See Seiple (1996), "The U.S. Military/NGO Relationship in Humanitarian Interventions," p. V: The end of the Cold War did not bring global peace. Since 1990, American military forces were "involved in a variety of military actions including a major effort in the Gulf." U.S. forces were also "involved in a variety of humanitarian operations, which require close cooperation with United Nations agencies, international organizations such as the International Committee of the Red Cross, and nongovernmental organizations." With regard to humanitarian intervention, see Tomes, "Operation Allied Force and the Legal Basis for Humanitarian Interventions," *Parameters*, Spring 2000, p. 38.; Glennon, "The New Interventionism. The Search for A Just International Law," *Foreign Affairs*, May/June 1999, p. 2; Ludlow, "Humanitarian Intervention and the Rwandan Genocide," *Journal of Conflict Studies*, Spring 1999, p. 22; Natsios, "International Humanitarian Response System," *Parameters*, Spring 1995, p. 68.

[37] See www.cnn.com/2000/WORLD/europe/08/08/kosovo.quit/index.html.

[38] See *Dictionary of International Relations*, 1998, p. 57: "In a speech to the Fifth Congress of the Polish communist party which asserted that the socialist commonwealth as a whole had a right of intervention in the territory of any one of its members whenever forces hostile to socialism threatened its ideological alignment. What became known thereafter as the Brezhnev Doctrine asserted that the unity of the communist bloc took precedence over such principles as domestic jurisdiction and equality of states." *Remark*: In contrast to this logic and in the aftermath of Kosovo, it seems that repressive policy by a nation state against parts of its population to preserve the unity of its territory, like in the case of former Yugoslavia, does not dispose of sufficient legitimacy anymore. The protection of individuals and people, within the boundaries of a nation state, ranks higher than the protection of a state's unity.

[39] *Remark*: Even though NGOs may already have filled gaps during the Cold War, there seems to have been a growing influence of NGOs in unofficial diplomacy with the end of the Cold War.

[40] Interview with McDonald at IMTD, spring 1997 and summer 1998: So-called ethnic conflicts were based on the following. First, people whose needs were denied always fought for their identity. Second, within the last century, most former empires fell apart. Third, the world internationally lacked the structures to cope with intra-state conflicts, even though theoretically, it was all in the UN Charter.

[41] See "Blair Sets Out Intervention Doctrine," *The New York Times*: "His Doctrine was set out to the Chicago Economic Club, turning the Brezhnev Doctrine of the 1960s on its head."

[42] See "Blair Sets Out Intervention Doctrine," *The New York Times*: "The spread of our values makes us safer," referring to John F. Kennedy, "who saw freedom indivisible, and where one man is enslaved, who is

free?"

[43] See Jentleson, "Coercive Prevention," (presentation at U.S.IP, November 16, 1999).

[44] See Joffe, *National Interest*, Summer 1999, p. 45: "Germany does not have to write a new script and to have a new costume. Germany is like a Gulliver who likes his ropes. In his mind are etched two commanding lessons from history. Whenever he strikes out on his own, he reaps not hegemony but ever-larger disaster, as in 1914 and 1939. But, when he accepts the bonds of multilateralism and community in all things economic and military, he flourishes beyond belief. Such twin lessons are not easily unlearned, and the speed with which they are internalized by a new government supposedly free of yesteryear's restraints may well serve as a testimony to their strength and endurance. But why not at least maneuver a bit more freely now that Germany's excruciating dependence on the West has vanished along with bipolarity?" The short answer was that there was "no need for post-Cold War Germany—the Berlin Republic—to stray from the mainstream of Western policy."

[45] See "Pacifist German Turns Hawkish on Serbs," *The Washington Post*, April 11, 1999, A. 23: "If we accept Milosevic as a winner, it would be the end of the Europe I believe in." His generation had asked "their parents why did it happen in Germany during the war and why did you not resist?" This had been the [crucial] question we had to "ask ourselves now. Both the German public and the government" were shocked, Fischer argued that Milosevic was "ready to act like Stalin and Hitler did in the 40s: to fight a war against the existence of a whole people."

[46] Ibid: "Fischer's hawkish position does not sit well with all his constituents. Many pacifists in the Greens party do not accept the idea of Germany fighting a war. Given his early pacifism, he never expected to be granting an interview in NATO headquarters defending a bombing campaign. But, we could not accept Milosevic's policies and bow our knees in front of this ethnic cleansing. We would give up all the successes of the last four decades in Europe."

[47] "Unholy Symbiosis: Isolationism and Anti-Americanism," *Washington Quarterly*, Autumn 2000.

[48] *The Washington Post*, January 31, 2001.

[49] Presentation at American, German and European Military Involvement in the Balkans: Lessons Learned, Future Challenges, and Implications for Transatlantic Relations, (workshop at AICGS, November 29, 2000).

[50] See Chris Patten, (speech on the Future of the European Security and Defense Policy, Berlin, www.eurunion.org/news/speeches/991216cp.htm: "The Helsinki Summit a week ago has marked a historic breakthrough. The Heads of Government decided to give practical effect to the ambitions of the Amsterdam Treaty and the Cologne European Council Declaration. They decided to establish a European military capacity to undertake the full range of Petersberg tasks."

[51] Presentation on a redefined Germany and new directions in U.S. and EU relations, (WIIS, Women in International Security workshop, Washington DC, March 7, 2001).

[52] Mary Hampton, presentation at American, German and European Military Involvement in the Balkans: Lessons Learned, Future Challenges, and Implications for Transatlantic Relations, (workshop at AICGS, November 29, 2000).

[53] *Remark*: See web pages of German Ministry of Foreign Affairs, www.auswaertiges-amt.de

[54] "Irritationen in der transatlantischen Debatte. Die EU als Gegengewicht zu Washington's Aussenpolitik?" *Neue Zürcher Zeitung*, February 2, 2001; "Der Umgang mit dem Hegemon. Europa richtet umfassenden Forderungskatalog an die neue U.S. Regierung," *Süddeutsche Zeitung*, January 29, 2001; "Europa muss seine Hausaufgaben machen. Konferenz in Berlin nahm die transatlantischen Beziehungen kritisch unter die Lupe," *Berliner Morgenpost*, January 29, 2001; "Deutsche Wunschliste für Washington. Umfassende amerikanischen Konsultationsbereitschaft gefordert," *FAZ,* January 29, 2001; "Berlin will breite Debatte über U.S.-Raketenabwehr," *Der Tagesspiegel*, January 27, 2001.

[55] "Leak Strains Germany's Relations With U.S.: Cable About Gadhafi Also Fuels Infighting Among Schröder Aides," *International Herald Tribune*, May 23, 2001; "German Cable on Quaddafi Sets Off Dispute," *The New York Times*, May 23, 2001; "Plain Speaking, Plain Cover-Up: The Leak of an Ambassador's Cable is Causing Red Faces and Rage," *The Economist*, May 26, 2001; "America and the UN: Shameful All Around. Voting the U.S. off the UN's Human-Rights Commission is bad for human rights, bad for all concerned," *The Economist*, May 12, 2001; "EU and U.S. Out of Step Over Macedonia," *Financial Times London*, May 28, 2001; "Alliance Needs Stronger Action in Macedonia: Former NATO Commander," *Agence France Presse*, May 27, 2001; "Rumsfeld Worries Allies by Call for U.S. Troops Pullout in Bosnia," *International Herald Tribune*, May 24, 2001; "Germany Condemns Albanian Parties' Dialogue With Rebels," *Agence France Presse*, May 24, 2001; "U.S. Official Calls

Macedonian Agreement 'Unfortunate'," *Deutsche Presse-Agentur*, May 24, 2001; "Macedonia. Last Piece in the Balkan Tragedy," *The Economis*t, May 19, 2001.

[56] *Remark*: Experts in Washington in early 2001 suggested, Schröder's visit to DC—even though perceived as cold in Germany—may have convinced Bush of the necessity to cooperate with its European allies and Japan on global warming. The focus of Schröder's visit on MD and global warming seems to reflect Germany's own political agenda—determined largely by its current social-democratic and green coalition, of which representatives of the 68 generation form the government. It also is a troubling testimony to a limited German foreign policy that focuses exclusively on European integration.

[57] "United States: Working out the world. George Bush's emerging foreign policy seems colder, and sharper than Bill Clinton's, but it isn't either 'hawkish' or 'isolationist'," *The Economist*, March 31, 2001, p. 23.

[58] *The Economist*, April 28, 2001: "European criticism reflects in exaggerated form the criticism made of Mr. Bush at home."

[59] "Missile defense tops German minister's trip to U.S.," *DPA*, March 6, 2001; "Powell praises German role on missile defense," *DPA*, March 23, 2001; "Moving Target. Among the Unknowns about Missile Defense is who the Enemy Is," *The Wall Street Journal*, February 9, 2001; "U.S. tries defusing allies' opposition to missile defense. Rumsfeld makes a case," *The New York Times*, February 3, 2001; "Shifts in Europe pose prickly challenge to U.S.," *The New York Times*, February 11, 2001; "U.S. Tries to defuse Opposition of Allies to a Missile Defense," *The New York Times*, February 11, 2001; "Star Wars' and Europe: the mood is shifting," *The New York Times*, February 4, 2001; "Getting defensive. America and Europe should not let missile defenses come between them," *The Economis*t, February 10, 2001, p. 24.

[60] "A Wunderkind Comes to grief in Germany," *The New York Times*, November 21, 2001.

[61] "Spitzendiplomat: U.S.A und EU Fremdeln," *TAZ*, July 12, 2001; "Wieczorek-Zeul kritisiert Amerikas Raketenabwehrplaene," *FAZ*, July 26, 01; "U.S.A wollen sich Herausforderung durch Klimawandel nicht entziehen—Powell: Bonner Klimakompromiss 'fuer die U.S.A nicht akzeptabel'," *Agence France Presse*, July 24, 2001; "Der böse Geist von Genua überschattet Bonner Klimagipfel," *DPA*, July 22, 2001; "G 8: Globalisierung hilft allen—Pläne für Krisengebiete—Uneins über Klimapolitik—Konsequenzen aus beispiellosen Krawallen," DPA, July 22, 2001; "Headlines from Germany. Ambassador Talks with Bush, Presents Credentials," www.germany-info.org/news6/ARRIVE.htm, August 3, 2001: "Ischinger remarked that the working visits to the U.S. by Chancellor Gerhard Schroeder and Foreign Minister Joschka Fischer earlier this year had laid important groundwork for the handling of some of the more difficult bilateral and transatlantic issues. President Bush emphasized again how important good relations with Germany are to him".

[62] "A Wunderkind Comes to grief in Germany," *The New York Times*, November 21, 2001.

[63] "Der neue U.S.-Präsident, Namensartikel von Karsten D. Voigt, Koordinator für die deutsch-amerikanische Zusammenarbeit," *Berliner Morgenpost*, December 18, 2000; "Karsten Voigt: Das Deutsch-Amerikanische Verhältnis nach der Präsidentenwahl," *DLF*, January 2, 2001; "Die transatlantischen Beziehungen nach dem Regierungswechsel in den U.S.A," *SPIEGEL ONLINE*, February 2, 2001; Jackson Janes, "Getting to Know You: Germany's Foreign Minister Fischer's Visit to Washington," (Washington DC: AICGS), March 2001: "The calls for Minister Fischer to confront the U.S. on the Iraq bombings were extensive in Berlin, especially among the Greens. However, some Social Democrats were equally vocal, despite the low-key position of Chancellor Schroeder. Fischer's predecessor in office, Klaus Kinkel, was among the critics as was CDU foreign policy expert Karl Lamers, both accused the Minister of being too soft."

[64] "U.S.-Sicherheitsberaterin Rice sieht 'neue Ära der Zusammenarbeit'," *DPA*, July 26, 01; "Russland droht nach Bonner Klimakonferenz mit Todesstoß für Kyoto—Putin-Berater: Russland noch nicht zur Ratifizierung bereit—Moskau sieht nationale Interessen gefährdet," *Agence France Presse*, July 23, 01; "U.S.A und Russland einigen sich überraschend auf Ruestungsdialog," *DPA*, July 22, 01; "Für Bush life in Genua alles nach Wunsch—Putin ein Partner von Herbert Winkler," *DPA*, July 22, 01; "Bush und Putin wollen NMD mit Abrüstungsfragen verknuepfen," *AP Worldstream—German*, July 22, 2001.

[65] "Bush's European Theater. On World Stage, America's President Wins Mixed Review," *The New York Times*, July 25, 2001: "By the end of the week, Prime Minister Tony Blair of Britain, Prime Minister Silvio Berlusconi of Italy and President Vladimir Vladimir Putin of Russia all said that Mr. Bush was right to force the world to think about a new 'strategic framework. We're getting used to him,' a German says. The Balkan experience has convinced the Europeans of one thing: Mr. Bush can, under the right conditions, be persuaded to change his mind"; "Bush, In Kosovo, Tells U.S. Troops Role Is Essential. Reversal From Campaign," *The New York Times*, July 25, 2001; "Bush Displays Plain Talk and Charm

for Europeans," *The New York Times*, June 16, 2001; "Bush's European Visit Reaffirms Ties, Yet Substantial Differences Remain," *The Wall Street Journal*, June 18, 2001; "The Ugly European. After Years of Deploring American Imperialism, the Continent Gripes About American Isolationism," *The Wall Street Journal*, June 18, 2001; "Bush's Vision for Europe," *Financial Times*, June 18, 2001; "Erstaunliche Annäherung. U.S.A und Europa in Sicherheitspolitik einiger als vermutet," *Süddeutsche Zeitung*, June 18, 2000; "President Climbs in European Esteam," *International Herald Tribune*, June 18, 2001; "Differences on Global Warming and Missiles Can Be Bridged," *International Herald Tribune*, June 18, 2001; "Doing the Normal Thing. Can George Bush and Vladimir Putin Agree to Disagree Constructively?" *The Economist,* June 9, 2001.

[66] Interview with a representative of the German Ministry of Foreign Affairs, Berlin, January 2001.

[67] "Ex-Yugoslavia. NATO In the Middle," *The Economist*, April 14, 2001: "The five countries that have sent most men to Kosovo have different reactions to the threat. Many senior KFOR men say that the close former relations between the Americans and the Kosovar Albanians make it hard to explain now to Albanians that things have changed. The French, in the north of Kosovo, chuckle and reflect that the caution they have shown towards the Albanians since June 1999 is now proving justified."

[68] Michael Quinlen (presentation at CGES, Center for German and European Studies, Georgetown University, December 5, 2000): This related to a situation, where peacekeeping turns into peacemaking or open war, independently from what ESDP theoretically may be about. See "Europe Acts to Build Own Military Force," *The New York Times*, November 20, 2000; "European defense. A long march," *The Economist*, February 17, 2001, p. 54. *Remark*: Formulated at Cologne EU Summit in July 1999, during German EU presidency, at Nice EU Summit in December 2000, and during French EU presidency.

[69] "Carlotta Gall: A Balkan Day: One Step Forward and Three Steps Back," *The New York Times*, May 25, 2001; "Presevo Clashes Worsen," *BBC World News*, May 14, 2001. See Lawrence Cline, (presentation at Annual Conference of New York State Political Science Association, May 2001): "Such an unhealthy division already existed on a daily basis in Kosovo. KFOR troops were confronted with different approaches by their national governments. This constrained their close cooperation. In addition, each country tried to leave the difficult jobs of enforcement that were potentially more dangerous to other NATO countries. The divide between tasks in the context of monitoring and civil conflict management and more risky security tasks was obvious."

[70] Ambassador Joris M. Vos, "European Common Foreign and Security Policy: How Common Can You Get?" (Presentation at CGES, Center for German and European Studies, Georgetown University, Washington DC, Oct 28, 1999).

[71] *Remark*: With regard to intervention, in spring/early summer 1999, Blair proclaimed a bold new international doctrine that would justify outside military intervention in the internal affairs of governments such as Yugoslavia. His Doctrine of International Community argued that national sovereignty is less important than human rights and preventing genocide. Acts of genocide could never be a purely internal matter. The following five tests for intervention existed: "First, are we sure of the case? Second, have we exhausted diplomatic options? Third, was if military operations were sensible. The fourth asked if parties were prepared for the long term. Fifth, national interests should be involved". See Michaela Hertkorn, 2002.

[72] Vos, "European Common Foreign and Security Policy: How Common Can You Get?" (Presentation at CGES, Center for German and European Studies, Georgetown University, Washington DC, Oct 28, 1999.)

[73] *Remark*: With regard to intervention, late spring/early summer 1999, Blair proclaimed a bold new international doctrine that would justify outside military intervention in the internal affairs of governments such as Yugoslavia. His Doctrine of International Community argued that national sovereignty is less important than human rights and preventing genocide. Acts of genocide could never be a purely internal matter. The following five tests for intervention existed: "First, are we sure of the case? Second, have we exhausted diplomatic options? Third, was if military operations were sensible. The fourth asked if parties were prepared for the long term. Fifth, national interests should be involved". Michaela Hertkorn, *Conflict Prevention*, Free University of Berlin, 2001.

[74] *Remark*: Germany's current social-democratic and Green coalition government, in the aftermath of Kosovo, made conflict prevention and civil crisis management a core topic of its foreign policy. See web pages of German State Department in Berlin, www.auswaertiges-amt.de. NATO committed itself to create a new Strategic Concept for its 1999 50th anniversary. This process did not start with St. Malo, but with the Berlin NATO summit of 1996. (Ron Asmus during a personal interview, Washington DC, Fall

2000).

75 Paula J. Dobriansky and David B. Rivkin, *The Washington Post*, January 30, 2001.

76 "Hague Faces Euro Split. Conservative MP Compares Schröder's Plan with Hitler's *Mein Kampf*," *BBC World News*, May 13, 2001; "Védrine Rät Deutschen Zu Selbstbewusstsein," *Focus Magazin*, April 2001; "A Eurovision Song Contest," *The Economist*, May 5, 2001: "Unlike the real Eurovision song context, no one entry will be declared the winner. The real question is whether all the different songs can be blended into a single harmony; or whether discussions at Laeken and after will turn into a discordant cacophony of clashing voices."

77 *Remark*: Just days before NATO summit in April 1999, German Foreign Minister Joschka Fischer said he never shared the view that NATO was suited for great power intervention. He added that portraying the alliance as omnipresent or omnipotent would be a mistake. *While Fischer supported NATO air strikes against the FRY and was eager to exhibit a Red/Green policy of continuity, he clearly felt uncomfortable with any assumptions concerning future NATO interventions. He repeatedly reminded the German public that Kosovo was an emergency that led to an emergency response, and that there were no other alternatives.*

78 "Germans Offer Plan to Remake Europe Union," *The New York Times*, April 30, 2001: "There is a long tradition in German foreign policy of giving up sovereignty in order to increase, indirectly, Germany's influence over Europe". *The Economist*, May 5, 01: "The German plan at first drew cross party assent at home: Germany is easily the single biggest contributor to the EU's budget—of which 80 % is spent on agriculture and regional policy. Repatriating those policies would mean that Germany paid much less towards the EU. The plan would also strengthen Germany's institutional weight relative to other countries. France has fought tooth-and-nail to ensure that, even though Germany has the biggest population of any EU country, it has no more votes in the Council of Ministers than the other big ones— Italy, Britain and, of course, France. In the European Parliament, however, the weight of German population is acknowledged with a greater number of parliamentary seats, though small countries are still over-represented. So strengthening the parliament relative to the council boosts German influence."

79 See "The Roles of the U.S. Military in the New Millennium." Executive *Summary of the Cantigny Conference*, Robert R. McCormick Tribune Foundation and Women in International Security, Sep 14— 15, 2001; "Peacekeeping and War. No, They're Not Incompatible," *The Economist*, August 18, 2001; "A heart-rending but necessary war," *The Economist*, November 3, 2001; "After the rout," *The Economist*, November 17, 2001.

80 "Sind wir alle Amerikaner," *Neue Zürcher Zeitung*, September 15/16, 2001.

81 "Europe's foreign policy. Guess, who wasn't coming to dinner?" *The Economist,* November 10, 2001: The campaign against terror has exposed the problems of building a common European foreign policy: "It was ludicrous—but quite serious. The row over who was to be invited to dinner with Tony Blair at Downing Street on November 4th exposed just how self-obsessed the EU remains, even in the midst of a world crisis. And it also illustrated just how hard it will be to forge a common European foreign and security policy."

82 "Afghans wait for portents in Bonn talks. Factions' first meeting seen as a test of intent," *The New York Times*, November 26, 2001; "U.S. and 21 Other Nations Pledge Billions to Rebuild Afghanistan After the War Ends," *The New York Times*, November 21, 2001.

83 "German Greens patch rift and support use of military," *The New York Times*, November 25, 2001; "Germany's government, still edgy. Despite winning a vote of confidence, the Chancellor is rattled," *The Economist,* November 14, 2001; "German leader calls vote of confidence on role in Afghanistan," *The New York Times*, November 14, 2001; "Pressing Greens, German leader wins historic vote on sending troops to Afghanistan," *The New York Times*, November 17, 2001; "Germany ready to send force of 3,900. Not clear if they would be combat soldiers," *The New York Times*, November 7, 2001.

84 Wolfgang Ischinger, "Germany and the United States: Allies against Terrorism," (presentation at the World Affairs Council, Washington DC, December 11, 2001).

85 "Streit zwischen Berlin und London droht Afghanistan-Resolution weiter zu verzögern," *FAZ,* December 18, 2001; "Britain to lead Afghanistan force. Peacekeepers to coordinate with U.S.," *The Washington Post*, December 11, 2002; "Germany's government: still edgy," *The Economist*, November 24, 2001.

86 *DPA, Deutsche Presseagentur*, January 23, 2002.

87 *Süddeutsche Zeitung*, January 30/31, 2002.

88 Charles Krautmammer, "Why are our allies up in arms?" *Fox News*, February 19, 2002,

www.foxnews.com/story/o,2933,44706,00.html; "U.S. blasts Straw's criticism of Bush speech," *Scotsman*, February 4, 2002; "U.S. rebukes Straw for his view of "axis of evil'," *Times (London)*, February 4, 2002; "Bush will U.S.A zu selbst ernanntem Weltpolizisten machen," *DPA,* January 31, 2002.

[89] "Fischer erwartet harte Diskussion über Irak mit Bush," *DPA, Deutsche Presse-Agentur*, May 23, 2002; "Who needs whom? Special report: America and Europe," *The Economist*, March 9, 2002; *The New York Times*, January 31, 2002.

[90] "Amerika. Atlantische Aufwallungen. Bündnisfall Irak: Europa macht gegen U.S.A mobil," *ZEIT.DE*, February 25, 2002; "Cross talk among allies," *The Washington Post*, February 20, 2002; "Why Europe is wary of war," *The New York Times*, February 18, 2002; "Europa schweigt, wenn die U.S.A Fragen, was sie tun sollen. U.S.-Außenpolitiker Gedmin zum transatlantischen Verhältnis," *Augsburger Allgemeine,* April 5, 2002; "Was wir für Wahrheit halten. David Blankenhorn über gerechten Krieg, die Rolle der Moral im Krieg und Intellektuelle," *die tageszeitung*, April 20/21, 2002; Brigitte Hamm, Jochen Hippler and Dirk Messner, Christoph Weller, "World politics at the crossroads, the 11th of September 2001 and the aftermath," *EF/Development and Peace Foundation Policy Papers*, 19, 2002; Volkmar Schultz and Daniel Benjamin, "Germany and the September 11 terrorist attacks on the U.S. The challenge of combating transnational terrorism," (presentation at Friedrich Ebert Foundation, Washington, DC, October 25, 2001.)

[91] "The nuclear-posture review. What's new?" *The Economist*, March 16, 2002; "U.S. tries to explain new policy for a bomb," *The New York Times*, March 11, 2002.

[92] Representatives of SWP, Stiftung für Wissenschaft und Politik, Berlin, April 16, 2002.

[93] "Al Qaida bekennt sich zu Djerba-Anschlag. Terrorspur führt nach Deutschland," *Die Welt*, April 17, 2002; "Schily announces he will travel to Tunisia to investigate suspected terrorist explosion," *FAZ,* April 17, 2002.

[94] Representative of the Embassy of Germany, Counselor (Political), Washington, DC, March 21, 2002.

[95] *Remark*: Within German media and academia, there has been a tendency to focus criticism on Israel and not equally on Palestinians. See "Deutschland deine Juden," *FAZ, Frankfurter Allgemeine Zeitung*, May 11, 2002; "Der träge Antisemitismus," *Die Welt*, May 10, 2002; "Israel and the outside world," *The Economist*, May 4, 2002; "Friendly Fire. Why Palestine divides Europe and America," *The Economist*, April 20, 2002; "Europe and the Middle East: Allies at odds," *The Economist*, April 13, 2002; "Europa ist kein ehrlicher Makler," *Berliner Zeitung*, April 17, 2002; Christopher Caldwell, "Liberte, Egalite, Judeophobie. Why Le Pen is the least of France's problems," *Weekly Standard*, May 6, 2002, p. 20.

[96] Gunter Hofmann, "Kriegseinsatz. Und jetzt in Reih und Glied," *DIE ZEIT*, December 11, 2001; Michael Naumann, "Deutschlandeinsatz. Ein Krieg wider Willen," *DIE ZEIT*, December 11, 2002; "U.S.A, die Über-Macht'," *stern magazin* www.stern.de February, 12, 2002; "Zum NATO-Krieg," http:/ /staff-www.uni-marburg.de/~rillingr/serbien.htm

[97] Remark: NATO at Twenty includes Russia, which participates in the new NATO-Russia Council, though without veto power.

[98] Presentation by NATO Secretary General Lord Robertson, the *20th Manfred-Wörner-Seminar for German-American-Understanding*, Brussels, May 7, 2002; "Bush and Putin sign pact for steep nuclear arms cuts," *The New York Times*, May 25, 2002; "To Russia for love," *The Economist*, May 18, 2002; "NATO strikes deal to accept Russia in a partnership," *The New York Times*, May 15, 2002; "NATO offers Russia new relationship, but without any veto," *The New York Times*, February 26, 2002.

[99] Presentation by a representative of Germany's Federal Ministry of Defense, the *20th Manfred-Wörner-Seminar for German-American-Understanding,* Bonn, May 6, 2002.

[100] Presentation by Hans-Ulrich Klose, Member of the German Bundestag, the *20th Manfred-Wörner-Seminar for German-American-Understanding*, Berlin, May 10, 2002.

[101] *Remark*: Numbers obtained on web pages of Germany's Federal Ministry of Defense, <www.bundeswehr.de> and as participant of the 20th Manfred-Wörner-Seminar for German-American Understanding, Bonn, Brussels, Berlin, May 2002.

[102] Presentation by Wolfgang Schäuble, Member of the German Bundestag, The *20th Manfred-Wörner-Seminar for German-American-Understanding*, Berlin, May 10, 2002.

[103] *Remark*: For example, "Germany is good for the world." See "Ströbele verläßt aus Protest Reichstag während Bush-Rede," *Associated Press Worldstream—German*, May 23, 2002; "Bush fordert entschlossenen Kampf gegen Terroristen; Rede des U.S. Präsidenten vor dem Bundestag; "Rußland als Partner in Europa gewürdigt," *Associated Press Worldstream—German*, May 23, 2002.

[104] "In Reichstag, Bush condemns terror as new despotism, seeks to reassure allies," *The New York Times*,

May 24, 2002; "Bush begins mission to assure Europeans he wants their advice on global hot spots," *The New York Times*, May 23, 2002; "Protests, and friends, too, await Bush in Europe," *The New York Times*, May 22, 2002; Anke Landmesser, "Nicht ein deutscher Satz aus dem Munde von George W. Bush—trotz vollmundiger Ankündigungen keine historische Rede," *Agence France Presse—German*, May 23, 2002; "Reaktionen auf die Rede von U.S.-Präsident Bush. Von "herausragend" bis "enttäuschend'," *Agence France Presse*, May 23, 2002; "Eklat im Reichstag während Bush-Rede. Drei PDS-Abgeordnete hielten Transparent hoch, 'Stop your wars'," *Associated Press Worldstream—German*, May 23, 2002: "Bush ratings improve but he's still seen as unilateralist. Americans and Europeans differ widely on foreign policy issues." "How Americans and Europeans See the War on Terrorism and U.S. Mideast Policies," (a multinational survey conducted in association with *International Herald Tribune* and Council on Foreign Relations, April 2002): This study shows, four in ten Germans under 30 favor anti-Iraq military action, while only one-in-five Germans age 70 do so. At least the younger public may not need that much convincing, in contrast to the generation of the 60s, which currently is in power. *Remark*: German Foreign Minister Fischer never felt comfortable having had to intervene with NATO in Kosovo. In general, the Left in Europe seems to face the challenge to readjust its worldview after September 11th. Federal elections in Germany in fall 2002 represented a decisive moment in this regard. It is no coincidence, that Iraq as foreign policy issue finally decided an election that was too close to call. See "Deutsche Intellektuelle kritisieren U.S.-Anti-Terrorpolitik," *DPA,* May 2, 2002.

[105] "French punish left and far right in vote for parliament," *The New York Times*, June 10, 2002; "France's general election. Give the right sort of right a chance," *The Economist,* June 8, 2002; "Chirac is victor as France rejects his far-rightist rival," *The New York Times*, May 6, 2002; "Europe 'is rubbing its eyes' at the ascent of the right," *The New York Times*, May 18, 2002; "A wind of change in the Netherlands—and across Europe," *The Economist,* May 18, 2002; "Europe's far right. Toxic but containable," *The Economist*, April 27, 2002; "Intellektuelle warnen vor rechtem Populismus," *Neue Zürcher Zeitung*, April 30, 2002.

[106] "Joschka Fischer ist die 'Stimme Europas'," *meinstern.de* www.stern.de February 13, 2002.

[107] "On visit to Paris, Bush tries to ease concern in Europe," *The New York Times*, May 27, 2002.

[108] "Kampfeinsätze und EU-Osterweiterung. Ein Rückblick: Rot-Grüne Außenpolitik und der Bedeutungsverlust der Pazifisten?" *FAZ,* August 7, 2002; "Die SPD im Wahlkampf auf einem 'deutschen Weg'," *FAZ,* August 6, 2002; "Battle to beat Schröder finds hope in Europe's tilt to right," *The New York Times*, June 19, 2002; "Der Kandidat zeigt sich als Außenpolitiker," *Die Welt*, May 2002; "Stoiber: Arafat schuld an Gewalt in Nahost," *Die Welt*, May 2002.

[109] *Remark*: The argument can be made at this point, that opposition parties of Christian and Free Democrats missed the opportunity to make foreign and security policy an election topic. Focusing mostly on economic politics, they were unable to offer any alternative to Schröder's anti-war rhetoric.

[110] "Schröder steckt den Kopf in den Sand. Professor Michael Wolffsohn warnt for einem "deutschen Weg'," *Schwarzwälder Bote*, August 29, 2002; "Berlin kritisiert U.S.-Drohung gegen Irak," August 27, 2002, www.tagesschau.de; "5 who attacked Iraqi Embassy had sought asylum in Germany," *The New York Times*, August 22, 2002; "U.S. quietly chides German for his dissension on Iraq," *The New York Times*, August 17, 2002.

[111] "Stance on Bush policy could swing election in Germany," *The New York Times*, September 9, 2002; "Blair, meeting with Bush fully endorses U.S. plans for ending Iraqi threat," *The New York Times*, September 8, 2002; "Bush calls leaders of 3 major nations asking for support on Iraq," *The New York Times*, September 7, 2002; "Blair seeks to bridge Europe gap in U.S. visit," *The New York Times*, September 7, 2002.

[112] "Iraq's Weapons of Mass Destruction, the assessment of the British government; Rice: Irak bildete Al Qaida aus," *Die Welt*, Sep 27, 2002.

[113] "Blair forcefully defends reported U.S. plans to attack Iraq," *Herald Tribune*, Sep 4, 2002; "Blair assails Hussein, backs Bush on Iraq," *The Washington Post*, Sep 4, 2002; "French leader offers formula to tackle Iraq," *The New York Times,* September 9, 2002; "UN debate over Bush's stance on Iraq draws fresh skepticism, and some support—Italy," *The New York Times*, September 15, 2002; "Europeans get behind a deadline for Iraqis," *The New York Times,* September 17, 2002; "Polen: Verständnis für U.S.-Militärschlag," *tagesschau.de*, September 24, 2002.

[114] "Rumsfeld takes force idea to NATO," *Fox News*, September 22, 2002.

[115] "Robertson sorgt sich um das Verhältnis Berlin—Washington," *Die Welt*, September 27, 2002.

[116] "Stance on Bush policy could swing election in Germany," *The New York Times*, September 9, 2002.

[117] "U.S. condemns poisoned relations with Berlin," *CNN*, September 20, 2002; "Rumsfeld geht auf Distanz bei NATO-Treffen—Struck glaubt an Normalisierung," *DPA*, September 24, 2002.

[118] "Bush fordert von Berlin Unterstützung der Irak-Politik," *DPA*, May 20, 2002.

[119] *Remark*: On February 4, 2003 in a common press conference with Chirac, Blair stressed the "good spirit of the entente cordiale." This entente was based on military agreements between England and France from on 1906 and led to the complete and disastrous isolation of the German Reich up to 1914. After Powell's presentation at the UN on February 5, 03, commentators like Bill Kristoll or Senator McCain concluded: "*Poor Germans. I am afraid the French are going to lead Germany into isolation.*"

[120] "Blair's balancing act: bridging the U.S.-Europe divide," *Herald Tribune*, Sep 26, 02: "After Schröder might not have succeeded in London by the end of September 2002, to get Tony Blair to help him restore German-U.S. relations, Schröder may focus now on getting France to join ranks to counter U.S.-UK policy on Iraq. In any case, for Germany, one question seems to be obvious and of importance in the weeks and months to come: what will be the price tag for either British or French support vis-à-vis the U.S.?"

[121] "Bemühungen um Deutsch-Amerikanische Beziehungen-Blair könnte Brücke bauen," *tagesschau.de*, September 24, 2002.

[122] See Speech by NATO Secretary General, EU Committee on Foreign Affairs, Human Rights, Defense Policy and Common Security, Lord Robertson, *NATO on-line library*, October 8, 2002; "Transforming the Alliance," *NATO Review*, Summer 2002; "Declaration on NATO transformation, Standing Committee," Brussels, October 6, 2002.

[123] *Remark*: Be it pre-emptive strikes in the war against global terrorism, or peace enforcement and peacekeeping missions.

[124] "Eine 'Liste' Washingtons für Berlin. Forderungen zur Verbesserung der Beziehungen/Irak, Schnelle Eingreiftruppe, Türkei," *FAZ*, October 23, 2002.

[125] *Remark*: In summer 2001, after Bush's first two visits to Europe, German media and news were characterized by anti-Bush-anti-Americanism.

[126] "Rot-Grün will Wehrpflicht überprüfen," *tagesschau.de*, October 7, 2002.

[127] Serge Schmemann, "A speech recalls Europe's ghosts," *The New York Times*, November 23, 2002.

The Global Dimensions of Development

By Robert Picciotto

I. INTRODUCTION

Since September 11th, the dark side of globalization has come center stage with international terrorism suddenly joining illegal drug trafficking, ethnic conflict and the spillover of infectious diseases across borders on the global policy agenda.

Growing environmental pressures and the silent crisis of world poverty underlie these challenges. Almost half of the world's population subsists on less than $2 a day (2.8 billion out of 6 billion people). A fifth (1.2 billion) lives on less than $1 a day. Global inequality has risen. In 1999, the ratio of per capita income between the richest countries, e.g. Switzerland ($38,350), and the poorest, e.g. Niger ($190), was 200 to 1.[1] Two and a half centuries ago, the gap was only about 5 to 1. Given the communications revolution, this extraordinary economic imbalance is creating social discontent in poor countries plagued by high unemployment, especially among the youth.

The number of refugees and displaced populations has grown. The digital divide is widening. The AIDS crisis is devastating Africa. Deforestation is proceeding unabated. Bio-diversity is threatened. The financial instability associated with the growing integration of the global economy has proven especially harsh for the poor. The social costs of the debt crisis of 1982, the Mexican peso crisis of 1994, the Asian financial crisis of 1997, the Russian default of 1,998 and the Argentina crisis of 2002 have been borne mostly by poor people in poor countries.

In sum, globalization has not been symmetrical. The new technologies and market-oriented policies have benefited rich countries more than poor countries. The business sector has adapted to the new borderless economy. So has the voluntary sector now globally interconnected. Not so the public sector. Rich countries' development policies lack coherence while the scale and intensity of cross-boundary challenges is outstripping the management capacities of international organizations.

Hard work lies ahead to reform the ramshackle process currently in place to deal with global issues. Inter-governmental conventions are years in the making and enforcement mechanisms are non-existent or weak. To be sure, there is no shortage of international conferences, workshops and global think tanks. Equally, informal networks are multiplying and tailor-made alliances are sprouting up among public

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officials, business firms and non-governmental organizations. But they have tended to operate in isolation and sometimes at cross-purposes and monitoring of their results, let alone objective evaluation, has been the exception rather than the rule. All in all, globalization is severely under-managed.

In sum, globalization has not been symmetrical. The new technologies and market-oriented policies have benefited rich countries more than poor countries.

II. Development's Achievements

The emergence of a global public policy gap does not mean that development has failed – a popular myth. To the contrary, aggregate development trends have been positive. Economic growth in many still developing countries has produced average growth rates over the last several decades that are unprecedented in world history. The United Kingdom took more than sixty years to double output per person (1780-1838), but Turkey did it in twenty years (1957-77), Brazil in eighteen years (1961-79), and China and Korea in ten years (1977-87).
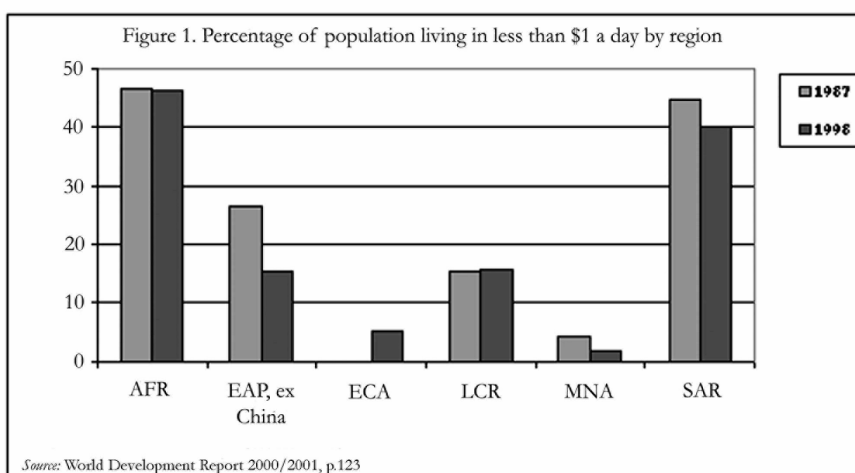
Since 1965, average annual GNP growth has been almost twice as fast in low-income countries as in high-income countries—5.9 percent a year compared to 3.0 percent.[2] Population growth in low-income countries eats up part of this growth. However, even in per capita terms, the average annual growth of low-income countries has been faster—3.7 percent a year in low-income countries versus 2.3 percent in high-income countries.[3] Still, in purchasing power terms, the average US family income is currently 60 times higher than that of an Ethiopian family.

An indicator strongly associated with poverty reduction is private consumption per capita. It rose by 3.5 percent a year since 1980 in low-income countries compared to 2.2 percent a year in high-income countries. Between 1987 and 1998, the share of population living on less than $1 a day declined from 28 percent to 23 percent. On the other hand, because of population growth, the number of poor people declined marginally from 1.25 billion in 1990 to 1.12 billion in 1999.[4]

Average gains in human development in low and middle-income countries have been substantial and even higher than gains in incomes. In these countries, between 1950 and 1998 life expectancy increased by 59 percent (from 41 years to 65 years), while in industrial countries it rose by 9 percent (from 70 to 76 years). This convergence reflects progress in infant mortality rates that fell from 11 percent to 6 percent. The progress of net primary school enrollments for girls from 67 percent to 82 percent may induce future gains in maternal and child health. Similarly, illiteracy was reduced from 39 percent in 1970 to 25 percent in 1998. And, access to clean water (an important determinant of health) rose from about one-quarter of the population of developing countries in the late 1960s to about two-thirds in the early 1990s.[5]

Development's Shortcomings

A. Performance Across Regions Has Varied Greatly

   Development's achievements, while impressive by any measure, generate widespread disenchantment. This has to do with the enormous variations in development performance across regions and countries. Specifically, the aggregate statistics are heavily influenced by the remarkable progress achieved in Asia, principally by China and more recently by India. The most rapid reduction in poverty rates took place in East Asia (from 28 percent to 15 percent of the population). In parallel, a 4 percent decline in the share of the population living in absolute poverty was recorded in South Asia. On the other hand, there were no discernible poverty reductions in Latin America and Africa while poverty rates increased dramatically in the transition economies that emerged following the dissolution of the Soviet Union. (See figure 1.)

Figure 1. Percentage of population living in less than $1 a day by region

Source: World Development Report 2000/2001, p.123

   Of course, development has to do with more than income and variations in social indicators have proven to be equally sharp across regions and country. South Asia improved its gross primary enrollment rate from 77 percent to more than 100 percent between 1982 and 1996, while the rate in Sub-Saharan Africa has not risen above 74 percent and may even have declined in recent years.[6] The poorest and smallest countries have generally fared worse than large countries. Some of them have been severely affected by political shocks and conflicts: twenty-three civil wars are currently underway in developing countries. Among them, they have claimed 5 million lives, of which half in the Democratic Republic of Congo. The AIDS crisis has also led to increases in rates of infant and maternal mortality. Given that the focus of the media on the turmoil of failed states, it is not surprising that the electorates of industrial democracies hold negative perceptions about development.

B. *Inequality Remains Extraordinarily High*

The other cause of public disenchantment with development has to do with inequality both across and within countries. Today's rich countries, which were already ahead of the race 100 years ago (primarily as a result of the Industrial Revolution), have continued to grow while the poorest countries concentrated in Africa and South and Central Asia have not grown much. In purchasing power terms, the ratio of the average income of the richest to the poorest country in the world increased from 9 to 1 at the end of the nineteenth century to about 30 to 1 in 1960, to more than 60 to 1 today.[7] To be sure, China and its smaller neighbors in East Asia (and more recently India) have been growing at faster rates than the already rich countries. But their convergence to the standards of living of the rich countries will not be achieved for decades if not centuries and it might not be ecologically feasible given current development patterns.

Today's rich countries, which were already ahead of the race 100 years ago (primarily as a result of the Industrial Revolution), have continued to grow while the poorest countries concentrated in Africa and South and Central Asia have not grown much.

Inequality within countries has risen. In the last two decades, it increased in China, where income growth has been concentrated in coastal areas. It has also increased in most countries of Eastern Europe and the former Soviet Union, where growth has been minimal and where the current poor are worse off than they were before the fall of Communism. The picture elsewhere is mixed. In most countries, income inequality has not changed much. Only in a few (including Bangladesh, Ghana and the Philippines) has it declined. This means that measured in terms of household data, the "world" distribution of income is even more skewed than inequality across states– greater than inequality within Brazil and South Africa where the richest 20 percent of households are about 25 times richer than the poorest 20 percent.[8]

On the other hand, in the last twenty years the long-term trend of increased inequality has moderated in terms of purchasing power parities. With rapid growth in average income in China and to a lesser extent in India, two of the world's largest poor countries, increases in world inequality have slowed. Average income of China's poorest 20 percent of mostly rural households—more than a hundred million people—has grown rapidly (even though income of China's urban households has grown even faster). Income in urban India has also been rising, including for the urban poor.[9] Thus, measured in terms of changes in purchasing power, average incomes between the initially 20 percent richest and 20 percent poorest households in the world, inequality, though very high indeed, is leveling off.[10]

All in all, global inequality is a serious challenge even if it mostly reflects past rates of growth. But this does not mean that connectivity to the global economy

hinders growth. Indeed, the opposite seems to be the case. Historically, the few poor countries that managed to catch up with their richer counterparts did so through increased trade. This includes Japan between 1868 and 1912, poor Western European countries during the nineteenth century, and more recently, within the European Union. Outward oriented development strategies also helped the tiger economies of East Asia, China, and now India achieve growth and poverty reduction.

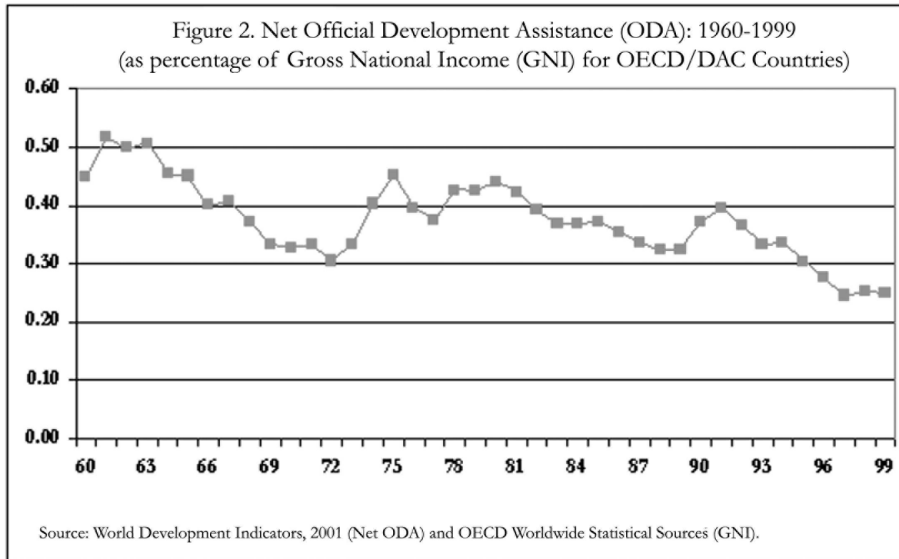*C. Current Development Trends Are Not Sustainable*

World population may stabilize in this century. Progress has been made in protecting the ozone layer and reducing acid rain. Lead is being phased out of gasoline. Environmental advocacy is helping to promote environmentally sustainable practices in the private sector. But current development policies are putting enormous pressure on the environment and it is the poor who bear most of the burdens of the resulting environmental degradation. Water scarcity is looming in many parts of the world. Coastal ecosystems are threatened. Erosion, salinization, and other forms of degradation affect 30 percent of irrigated lands, 40 percent of rainfed lands and 70 percent of rangelands. Seventy percent of fisheries are being harvested well beyond sustainable levels. Half or more of coral reefs may be damaged in this century. More than one third of bio-diversity resources are under siege within an area of less than 2 percent of the earth surface. Air pollution causes serious health damage in the growing cities of the developing world. Too much carbon dioxide and inorganic nitrogen is being pumped in the atmosphere.

Continued improvements in the well-being of the poor will require not only accelerated growth but also global transformation in the way environmental resources are managed. No sustainable future can be envisaged without expanded global finance directed at the control of greenhouse emissions; the discovery and promotion of renewable technologies, the enhancement of ecosystem sustainability; the protection of forests and bio-diversity resources or the improvement in livelihood prospects of the poor subsisting in ecologically fragile areas.

Continued improvements in the well-being of the poor will require not only accelerated growth but also global transformation in the way environmental resources are managed

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D. While Development Assistance Levels Have Declined, Development Effectiveness Has Improved

Aid has declined as a share of GNP. Given the above constraints and challenges, aid is critically important. Indeed, World Bank research indicates that without a doubling of development assistance levels, the millennium goals endorsed by the development community are unlikely to be reached. Unfortunately, current trends are not pointed in the right direction. Over the last decade, the volume of aid has
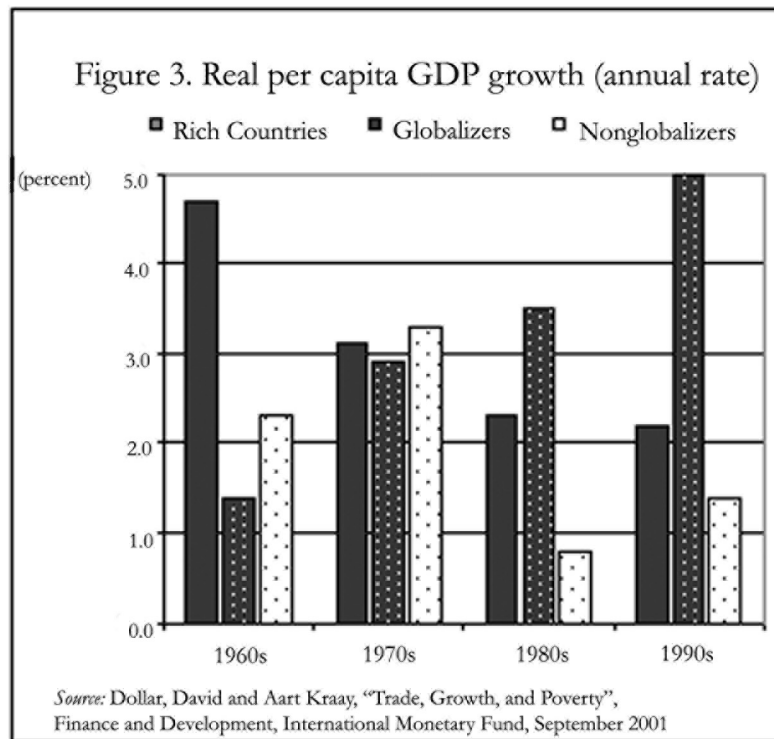
Figure 2. Net Official Development Assistance (ODA): 1960-1999
(as percentage of Gross National Income (GNI) for OECD/DAC Countries)

Source: World Development Indicators, 2001 (Net ODA) and OECD Worldwide Statistical Sources (GNI).

dropped from $51.8 billion to $37.5 billion. The percentage of GNP that donor countries allocate to aid has declined continuously from 0.5 percent in 1962 to 0.37 percent in 1990 and to 0.25 percent in 1999. (See figure 2.)

 Aid as a percentage of GNP of developing countries has also declined — from 2.0 percent in 1962 to 1.4 percent in 1990 and 0.8 percent by 1999.[11] Yet, current growth rates in most poor countries are too low to achieve poverty reduction. Indeed, no plausible development scenario yields growth rates sufficient to reduce poverty by half by 2015 without a doubling in aid flows.

 The end of the cold war enabled donors to align their aid more consistently with economic development rather than geo-political objectives. Where developing countries invested in human development and adopted market friendly development policies, the productivity and development impacts of aid programs increased. Greater openness has also helped to foster economic progress in developing countries (see figure 3).

 As a group, developing countries increased their merchandise exports at 4.1 percent per year in the 1980s and at 6.4 percent in the 1990s. As a result, during the 1990s developing countries gained significant market share—about 7 percent— in world non-energy merchandise trade.[12] Trade growth is highly correlated with income growth and is unequally distributed across developing countries. The poorest 48 countries have seen essentially no growth in their share of world trade. Such countries are not in a good position to take full advantage of available trade opportunities given severe infrastructure gaps, shortage of skills and institutional weaknesses. For them, aid remains essential.

Figure 3. Real per capita GDP growth (annual rate)

■ Rich Countries   ■ Globalizers   □ Nonglobalizers

Source: Dollar, David and Aart Kraay, "Trade, Growth, and Poverty",
Finance and Development, International Monetary Fund, September 2001

III. Shaping Development Outcomes for the Better—A Holistic Exercise

The very diversity of economic and social outcomes depicted above confirms the wide scope for improved economic performance through adoption of good policies. A substantial body of development research experience has identified key components of successful country development strategies. They emerge out of over fifty Country Assistance Evaluations (CAEs) produced by the Operations Evaluation Department (OED) of the World Bank since their introduction in 1996.[13]

A. Establishing Sound Macroeconomic Management Policies

Sound macroeconomic management has been identified as a key determinant of economic productivity. Numerous cross-country statistical analyses and case studies have shown that sound macro-economic policies promote growth and poverty reduction. Although there are ongoing debates over the importance, sequencing and design features of such policies as privatization, trade reform and capital account liberalization, broad agreement exists about the macro-economic fundamentals that make up a good environment for sustainable and equitable development. In particular, inward-looking, state-led development approaches have proven less effective than market friendly policies emphasizing incentives and private investment.

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Fiscal and monetary discipline, redirection of public expenditures towards human development, competitive exchange rates, openness to foreign investment, and protection of property rights have contributed to better growth performance over the medium-term. While a good policy environment favors growth, the results are even better with aid. In such situations, additional aid equivalent to 1 percent of GDP raises the long-term rate of growth by 0.5 percentage points on average. Conversely, financial aid to countries with bad policies and weak institutions may be wasted or even be harmful to development especially if it creates debt. Thus, despite considerable aid, countries such as Uganda and Tanzania had unimpressive growth until they put in place a sound framework of economic reforms[14].

Numerous OED studies have confirmed that the share of satisfactory project outcomes is influenced by the quality of the operating environment. Figure 4 below shows the latest results for FY96-01 exits. It compares the OED project outcome ratings (percent satisfactory) to the respective Country Policy and Institutional Assessment (CPIA) ratings used by the World Bank for its performance based allocation system.

The long-run benefits of sustained improvement in the policy environment can be substantial. An OED study of forty-three adjusting countries over the period 1975-96 examined the difference in growth between 'durable adjusters' (countries which maintained a good macro policy index for at least nine years), 'not yet durable
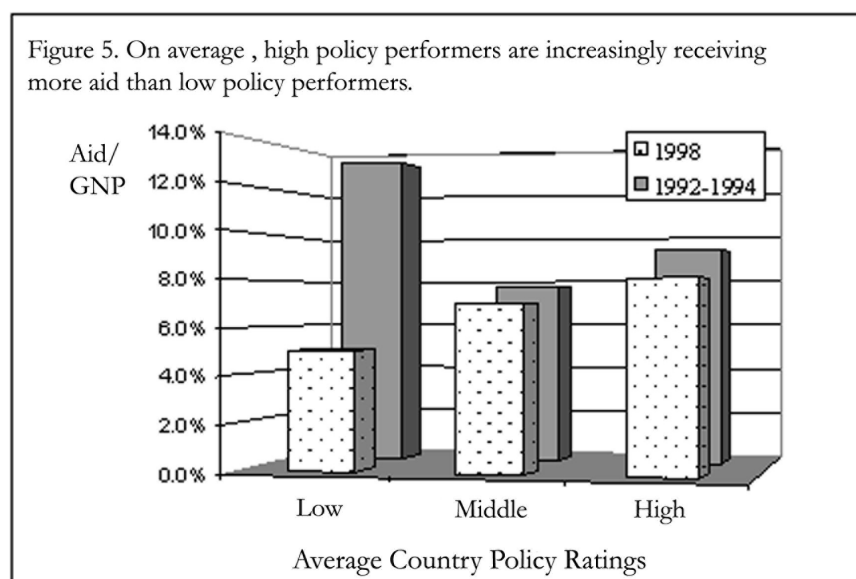
Figure 4. Better Lending Outcomes Associated with Higher Policy and Institutional Quality (FY96-01 Exits)
Source: 2001 Annual Review of Development Effectiveness , p. 25.
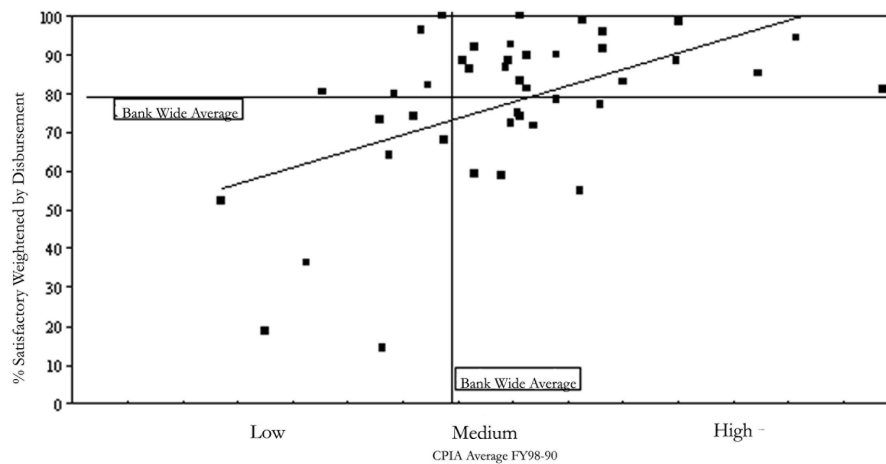
adjusters' (countries which had adjusted for at least the most recent four years but less than nine years), and 'oscillators' (countries which continued to oscillate between weak and strong policy environments). Only 12 percent of the countries achieved durable and major improvements in their macro policy environment, but for those that did, the results were dramatic.[15] In successful adjusters, GNP per capita grew at nearly three times the rate of countries that had not yet achieved durable adjustment, and six times faster than oscillators. The adjusters also increased their own pre-adjustment growth rates more than six-fold.[16]

Accordingly, outcomes improve markedly through *selectivity*. This lesson of experience is being heeded: more aid resources are now being directed to countries with sound policies. (See figure 5.)

Figure 5. On average , high policy performers are increasingly receiving more aid than low policy performers.

B. The Necessity of Social Reforms

Market reforms are necessary, but insufficient by themselves, to produce development. What is needed, rather, are broad social reforms. To be sure, income growth is correlated positively with reduction in poverty and infant mortality and with increases in caloric intakes and life expectancy. But not all 'quality of life' indicators improve with growth.[17] For example, equitable income distribution and secondary school enrollment have been found to be insensitive to growth while air quality has been negatively correlated with growth. In addition, macro-economic reforms have limited impact on income distribution. Their costs and benefits are distributed unevenly over time, across regions and among occupations. In parallel with improved macro-economic management, broad-based development strategies

must be adopted to promote private investment, environmental protection, fair labor practices, rural development and equitable access to credit and social services. Well-functioning markets create opportunities for people to escape poverty but social reforms need to be designed and implemented so as to provide 'safety nets' for adversely affected groups in a way that is tailored to the economic, social and political circumstances of individual countries.

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C. Institutional Capacity is a Measure of Development Effectiveness

Institution-building is vital to development effectiveness. Stronger institutions are associated with a 20 percentage point increase in the likelihood of a project's outcome being rated satisfactory (figure 4 above). Land tenure is a major determinant of rural income distribution. Sound state government is essential for efficient market operation, as well as, for equitable service delivery to the poor. Curbing corruption, reforming the civil service, offering legal protection for the rich and poor alike, involving local communities and voluntary organizations in social service delivery, and facilitating the creation of pro-poor organizations are among the determinants of socially sustainable development. Removing gender bias in public policy design, enhancing social expenditures in budget allocations, promoting social capital creation, and encouraging good corporate governance practices—including transparency and accountability—are equally worthwhile and indispensable objectives of development assistance.

D. Country Ownership of Development Policies is Essential

Sustained policy reform requires domestic 'ownership'. This is not usually generated through external conditionality. However, reform often takes place in the wake of economic crises or changes in government, and development assistance can be managed to promote, nurture, and consolidate country commitment. The key is being able to distinguish commitment from compliance. This is an 'art' rather than a 'science', but the ownership of policy reforms or programs can be assessed based on the degree of consensus among decision-makers, the locus of policy initiatives (whether local or external), the existence of up-front actions, and the participation of major stakeholders. [18] (See box 1.) When programs are adapted to the local context, ownership improves. This can be critical in low-income countries with weak implementation capacity. Project design features and policy reforms promoted by external assistance agencies are all too often too complex to be implemented effectively. Similarly, inadequate analytical and advisory services and/or insufficient

engagement with local counterparts can lead to inappropriate prescriptions. A poverty study by the Operations Evaluation Department found "surprisingly limited differentiation in the policy agenda across country assistance strategies over the past decade".[19]

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E. The Importance of Public-Private Partnerships

Partnerships have become critical to the development enterprise since development policy has become market-oriented and the civil society has emerged as a major development actor. Ideally, partnership means that all development actors agree to participate in a coordinated assistance strategy driven by the borrowing country. This is a central feature of the Comprehensive Development Framework being piloted in twelve developing countries around the world. Partnerships extend to NGOs as well as the private sector and external donors, and they specify each partner's role and accountability. At the sector level, partnerships can lead to sector-wide approaches to development assistance (SWAPs) that can help to harmonize aid practices and reduce transaction costs. When it works well, donor coordination can contribute to lower costs, better selectivity, and reduced burdens upon the borrowing government. Equally, partnerships among donors and country stakeholders can contribute to better-adapted programs (as in Uganda), broader country ownership (as in Bolivia), and increased learning and respect on both sides (as in Ethiopia).[20] Effective country-led partnerships implies that a minimum core of influential officials and stakeholders are committed to sound policies and poverty reduction priorities, and that they command enough institutional resources to coordinate aid without neglecting basic government functions.

F. Lending Programs Should Be Carefully Crafted and Implemented

Experience shows that country program outcomes depend on the choice and quality of lending instruments, the effectiveness of non-lending services, and the synergies tapped between lending and non-lending services. Thus, analytical and advisory services should precede lending. In addition, adjustment lending should be reserved for situations where governments are committed to policy reform. And, adaptable lending should be deployed where the operating environment is uncertain (starting with learning and innovation interventions, etc.).

For development effectiveness, a results oriented culture is vastly superior to an approval culture. Development agencies should not be too quick to re-engage on the basis of promises from reluctant reformers. Re-engagement should be based on

results rather than promises. Of course, there are cases in which a regime change leads to a "turning point".[21] In such cases, development agencies should be in a position to respond quickly. This is only possible if they have maintained a presence and kept their knowledge base current in the meantime. Recognition of "turning points" depends on case- by- case analysis, which confirms the need to maintain a cooperative relationship even when lending is suspended.

In countries with an uncertain environment, piloting projects offers a way to reduce risk, build institutional capacity, or convince stakeholders of the benefits of reform. In the Kyrgyz Republic, the CAE concluded that piloting new approaches through learning and innovation loans might have resulted in more realistic perceptions of government capacity, simpler project designs, and more effective lending.[22] Finally, over-reliance on adjustment lending can limit effectiveness if the policy and governance environment is inadequate. CAEs have found lending pressures in 5 out of 13 recently evaluated countries. In many instances, investment lending or non-lending instruments would have been more appropriate than adjustment lending.[23]

Half of the aid delivered to the least developed countries is still 'tied' to procurement of goods and services originating in individual donor countries.

G. Aid Delivery Mechanisms Need Reform

An evaluation carried out by the Operations Evaluation Department of the World Bank highlights a lack of capacity to absorb the volumes of aid provided given current modalities of aid delivery that involve large numbers of donors, each with its own fiduciary and reporting requirements and put enormous administrative burdens on local officials.[24] Half of the aid delivered to the least developed countries is still 'tied' to procurement of goods and services originating in individual donor countries. Donors vie with one another to lend for "popular" sectors such as education and health (where institutions tend to be the weakest) while neglecting basic infrastructure, rural needs and private sector development. Lack of harmonization in aid practices contributes to "donor overload" while the large number of project interventions strains limited country capacity.[25] In Tanzania, for example, the reporting requirements of forty donors for 2,000 projects are imposing excessive stress on the domestic administration. Furthermore, the World Bank and other donors often establish parallel institutions, such as project implementation units, to help channel financial assistance. These institutions provide salary supplements to domestic staff associated with these units, thus distorting civil service pay scales, weakening core ministerial capacity and undermining domestic ownership. Finally, donors often resort to costly technical assistance practices involving resident expatriate staff that tend to perpetuate aid dependency and de-motivate local staff.

V. Globalization Is Part of the Solution

While aid effectiveness can and should be improved, aid alone cannot be expected to trigger and sustain rapid, equitable and sustainable growth. Along with aid, foreign trade and direct investment are needed. In an international economic environment characterized by integrated markets for goods, services and capital, trade and investment are frequently associated with increased productivity since they provide a transmission belt for technology, knowledge and improved management practices.

While the life of 2 billion people living in countries handicapped by inward looking policies, poor governance and scarce skills is harsh, globalization is not the cause.

Aggregate private capital flows, however, have been both volatile and narrowly focused. For example, they are down from their peak of nearly $300 billion annually in 1997 to about $160 billion following the terrorist attacks of September 11, 2001. Yet, they are still a multiple of net Official Development Assistance flows—$42.6 billion in 2000.[26] Also, private capital flows are more concentrated than trade. In 1997, fifteen emerging market economies accounted for 83 percent of net private flows to developing countries. As a result, Sub-Saharan Africa received only five percent of the total.

The growing interdependence of economies around the world has impacted countries very differently because of highly differentiated policy frameworks and institutional strengths. The importance of a good investment climate has been amplified by the growing integration of capital markets. Countries that are already ahead–with stable political systems, secure property rights, adequate banking supervision, reasonable public services, and so on–are the ones that tend to attract both local and foreign investment.

Equally, societies and economies open to the free flows of people and ideas associated with globalization have done better than closed societies. However, the rapid opening of capital markets has not always had a wholesome impact on developing economies given the volatility of short-term capital flows. Although, China, and India have weathered in international financial storms better than many other developing countries, they are still relatively closed markets, especially on the capital account. Conversely, Mexico, Argentina, and Thailand have opened their capital accounts and have fallen prey to severe financial crises.

All in all, globalization has opened up major opportunities for 3 billion people living in countries that have adopted policies that favor trade integration into the international economy. While the life of 2 billion people living in countries handicapped by inward looking policies, poor governance and scarce skills[27] is harsh, globalization is not the cause. Across all developing countries there is no systematic relationship between openness to trade and "within-country" inequality. And even though income

inequality may have increased (e.g. in China), the more rapid growth associated with a capacity to hook up to the mighty engine of the global economy is creating opportunities for poverty reduction. It is also important to note that, even as inequality increased, poverty declined among such "globalizers" as China, India, Costa Rica, Indonesia, Vietnam, the Philippines, Thailand, Uganda and Mozambique.[28]

VI. The Benefits of Growth are not Equitably Distributed

Notwithstanding the benefits of growth as a by-product of globalization, growth alone is not enough to achieve poverty reduction. Concentration of wealth leads to concentration of political power and locks in privileges and economic advantage—as may have happened in Russia. Corruption also undermines the equity and efficacy of public expenditures allocations.[29] This means that where governance is poor, inequality can breed inequality through vested interests' capture of safety nets, fiscal tools and access to social services.

In particular, inequality of income can be perpetuated from generation to generation through poorly targeted educational expenditures. In Brazil in the early 1990s, 21-year olds from the richest families had twelve years of school, compared to about six years from those of the poorest families. Similar patterns can be found in other developing countries. Only socialist entities in the developing world (e.g. Cuba, China and Kerala in India) have succeeded in using education programs to reduce inequality.

Rising wage gaps in competitive economies open to globalization do increase inequality but they also provide incentives for enterprise and investment. Some countries view it as the price to pay for higher long-run sustainable growth. Highly trained engineers and financial analysts from developing countries can quadruple their earnings by moving to Europe or the United States. The resulting 'brain drain' is equivalent to lost investments in education worth billions. But given appropriate policies, migration can generate offsetting remittances over time. For example, remittances from the United States to Mexico and Central America grew from less than $1 billion in 1980 to more than $14 billion in 2002. [30]

Since the global market is not a level playing field, market- friendly policies, at both the global and country level, should be combined with people friendly policies in order to achieve poverty reduction. Global rule-setting and enforcement are influenced by power relationships and result from intricate negotiations and complex dispute resolution mechanisms. These processes involve specialized skills not always available to poor and small countries.

The benefits of globalization would be more equitably distributed among the rich and the poor with more open trade. The current protection of agriculture and textiles in developed countries is highly detrimental to the developing world since it affects precisely the sectors that are labor intensive and in which developing countries have a comparative advantage. In 2000, OECD countries provided $327 billion in

agricultural support, three quarters of which in the form of direct payments. These subsidies have created gluts of agricultural commodities that have crowded out developing country production. A 50 percent reduction in agricultural support combined with partial liberalization of manufacturing trade would yield benefits worth $69 billion annually to the developing world.[31] Another estimate based on a dynamic model projects the annual benefits of a fully revamped trade regime in 2015 at $184 billion for the developing world and $171 billion for rich countries.[32]

In boom years, high capital inflows and imprudent commercial lending fuel demand for land and stocks, which benefit the rich. The succeeding bust penalizes the poor when high interest rates are imposed to stabilize the currency and bank bailouts create public debt that transfers resources to capital owners at the expense of the general public.

Beyond trade, the rules of global finance tend to be especially demanding for developing countries. Financial markets expect tighter fiscal and monetary policies from developing countries than from developed countries. This is understandable given the financial risks involved, but this creates counterproductive social outcomes. Thus, in the face of recession, expansionary policies are needed to stimulate employment. But these are the circumstances when austerity policies must be imposed in order to restore fiscal balance—precisely the opposite of what developed country governments routinely implement through such devices as unemployment insurance, increased availability of food stamps and public works.

In the volatile and integrated global economy, poor countries are especially vulnerable to terms of trade declines. According to UNCTAD, between 1970 and 1997, cumulative terms of trade losses for non-oil exporting African countries amounted to more than half the cumulative net resource flows to the region. These losses, combined with interest payments, profit remittances, capital outflows and reserve buildup, have resulted in a net transfer of resources from Africa to the rest of the world.[33]

Poor countries are also peculiarly susceptible to financial contagion since their banking sector and their capital markets usually lack depth and strength. In boom years, high capital inflows and imprudent commercial lending fuel demand for land and stocks, which benefit the rich. The succeeding bust penalizes the poor when high interest rates are imposed to stabilize the currency and bank bailouts create public debt that transfers resources to capital owners at the expense of the general public.

Historically, migration has helped to reduce world inequality. Fertility rates are highest where employment opportunities are the scarcest, especially poor and remote

areas with limited agriculture potential. During the last 25 years, only 2% of the world's people have changed their permanent country residence, compared to 10 percent in the twenty-five years before World War I. Human capital mobility is currently hindered by immigration restraints. The resulting income differentials for skilled labor between developing and developed countries are as high as 1 to 5.

Immigration rules become even more stringent following September 11, 2001. Yet, demographic fundamentals related to the aging of populations in developed countries have increased the demand for imported labor, especially for low skill occupations that cannot be automated (e.g. in the health care field). In principle, migration could become a major instrument of global poverty reduction in the twenty-first century just as it was in the nineteenth century. Unfortunately, cultural constraints to assimilation lead to political pressure in favor of immigration restrictions. As a result, mutually beneficial legal migration is hindered and illegal smuggling of migrants enriches criminal groups and diverts public resources towards border control and internal security needs.

Finally, lack of skills and inadequate information infrastructure have created a digital gap that developing countries should fill in order to share in the benefits of the new information economy. Beyond this, the international regime for intellectual property rights needs review since it restricts the benefits that developing countries can reap from knowledge as a public good. While intellectual property rights are meant to create incentives for invention, they lead to relatively high costs for products and services in developing countries. Because developing countries are large net importers of technology from the developed world, the on-going globalization of intellectual property protection under the aegis of the World Trade Organization's trade-related intellectual property system (TRIPS) is bound to prove burdensome to poor countries unless countervailing measures are adopted. In particular, global action is urgently needed to promote agricultural and health research in developing countries, protect developing countries' traditional knowledge and restrict the application of patenting to protect poor countries' access to new agricultural technologies and basic medicines.[34]

VII. CONCLUSIONS

A. How to Ensure That Countries Reap More Benefits From Development Efforts

First, the time is ripe for the aid industry to be reformed. There is broad based consensus in the development community as to what needs to be done: (i) aid allocations should be performance-based and reward countries that adopt sound economic management practices; (ii) aid should promote social development and poverty reduction; (iii) domestic ownership of reform should replace intrusive conditionality as the touchstone of a business-like approach to development assistance; (iv) aid should support rather than undermine domestic capacities; (v) the choice and sequencing of development assistance instruments should be judicious and

focused on results; (vi) involvement of the private sector and the civil society should be encouraged and joint funding of government development programs should be promoted with the targeted country "in the driver seat"; and (vii) aid practices should be globally harmonized. This is a tall order, but much progress has already made with regard to the country level aid dimension of the global development challenge.

With some notable exceptions, existing global programs command limited resources. They are often scattered and isolated. Many have a relatively short shelf life. They will need to become far more effective and results oriented to help meet the huge challenges facing humanity in the new millennium.

Second, the "rules of the game" of the global economy need adjustment. Trade, aid, debt, investment, migration, knowledge and the environment are the transmission belts of globalization. Each of these areas is endowed with a distinctive force field, involves different sets of global and local actors and requires tailor made solutions. For each, a dedicated global policy network should be created to take the lead in promoting reform, facilitating agreement among the parties and reporting regularly on progress towards global welfare. This calls for engagement with stakeholders in diagnosing constraints, mediating conflicting interests and defining workable solutions to very controversial issues.

Third, mastering cross-boundary challenges will call for strengthened transnational coalitions to deliver global public goods. In particular, more bridges will need to be built between governments, the private sector and the civil society and ways found to channel public emotion towards increased support for international cooperation. Some existing public-private partnerships are successfully dealing with cross boundary issues (e.g. the highly successful international River Blindness Program coordinated by the World Bank with medicines donated by Merck). But with some notable exceptions, (e.g. the Global Environment Facility) existing global programs command limited resources. They are often scattered and isolated. Many have a relatively short shelf life. They will need to become far more effective and results oriented to help meet the huge challenges facing humanity in the new millennium.

B. The Cooperation of Multilateral Institutions is Critical to the Success of Development Efforts

Both aspects of global programs (policy and public goods) will call for a far closer alliance between the global multilateral organizations—the UN system, the Bretton Woods twins and the WTO. Such alliances should aim to facilitate the dialogue among governments, private firms and the civil society so as to create constituencies for reform, forge ad hoc coalitions and/or nurture programs to deal

with specific global challenges.

They will add value only through a highly selective, coordinated, action-oriented approach to agenda setting, program evaluation and monitoring. They should stay away from ideological debates and concentrate on critical obstacles to poverty reduction. They should also focus on selected policy issues that hold potential for significant progress over the medium- term in delivering favorable results, especially for the zones of transition and development where over 80 percent of the world's population lives.

Priorities will have to be set. Depending on the maturity of the topic for concerted action, a particular global problem may require the set up of platforms for professional interchange and cooperation, the provision of high quality analytical and advisory services, the organization of mediation arrangements, the design of independent verification and evaluation mechanisms, the promotion of public advocacy campaigns, the organization of fund raising programs, etc. From open-ended and loosely structured coalitions that exist today it will be necessary to forge business-like partnerships grounded in shared objectives, distinct accountabilities and reciprocal obligations.

In effect, a *comprehensive development framework* is needed at the global level just as it is needed at the country level. Indeed, the country level efforts will not be successful unless the superstructure of the development system is put to work. If not now, when?

Notes

[1] *World Development Report 2000/2001: Attacking Poverty*, Washington, D.C.: World Bank, 2001.

[2] GNP is weighted by country, using the Bank's Atlas conversion factor (a statistical method aimed at reducing the impact of exchange rate fluctuations in cross-country comparisons of national incomes).

[3] *2000 World Development Indicators*, Washington, D.C.: World Bank, 2001.

[4] *World Development Indicators*, 6th Edition, Washington, D.C.: World Bank, 2002, Table 2.6.

[5] Ibid., Table 3.5.

[6] Ibid., Table 2.12.

[7] Nancy Birdsall, *Asymmetric Globalization: Global Markets Require Good Global Politics, Working Paper No. 12*, Washington, D.C.: Center for Global Development, October 2002.

[8] Ibid.

[9] Ibid.

[10] Purchasing power parity based incomes is the right measure for comparing standards of living, since it reflects the cost of access to services and other non-tradables such as housing and education. But poor countries must generate domestic resources to pay debt service and purchase needed tradables at official exchange rates so that inequality measured in terms of official exchange rates matters as well. From this perspective, comparing household incomes across countries in terms of official exchange rates rather than in purchasing power parity terms would yield increases in world inequality.

[11] World Development Indicators, 2001 (net ODA) and OECD Worldwide Statistical Sources (GNI).

[12] *Global Economic Prospects and the Developing Countries*, Washington, D.C.: World Bank, 2002.

[13] William Battaile, *2001 Annual Review of Development Effectiveness, Making Choices, World Bank, Operations Evaluation Department*, Washington, D.C.: World Bank, 2002.

[14] *Uganda: Policy, Participation, People* and *Tanzania Country Assistance Evaluation*, Washington, D.C.: World Bank Operations Evaluation Department, 2001 and 2000.

[15] Robert Buckley, *1998 Annual Review of Development Effectiveness*, Washington, D.C.: World Bank, Operations Evaluation Department, 1999.

[16] Ibid.

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[18] Johnson and Wasty, 1993.

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Export-Import Bank Financing for U.S. Exports to Latin America

by Eduardo Aguirre, Jr.

"The United States is committed to proceeding with trade initiatives globally, regionally, and with individual nations," President Bush said in a speech to the Organization of American States earlier this year. The Export-Import Bank of the United States (Ex-Im Bank) stands ready to help fulfill the Administration's and the U.S. Congress' commitment to supporting U.S. exporters, as well as increasing economic stability in emerging markets, and reducing the likelihood of crises and sharp declines in investment flows.

Latin America is a priority market for U.S. exporters. Mexico alone accounts for 14 percent of U.S. merchandise exports, and Central and South America account for another 8 percent—for a total of more than $170 billion in annual sales. Latin America also has consistently ranked as Ex-Im Bank's top market.

The U.S. commitment to Latin America is backed by solid action by the Bush Administration, including the President's commitment to building a stronger and deeper relationship with Mexico and the Administration's strong advocacy for the creation of a Free Trade Area of the Americas, which could bring gains of $53 billion a year for the United States and at least as much for the countries of Latin America. All thirty-four democratic leaders of the hemisphere are committed to free trade, and there is hope to complete negotiations on the Free Trade Area of the Americas by 2005. In addition, the Administration was pleased that discussions were initiated last year among Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua to establish a free trade agreement with the United States and establish closer economic relations with the U.S.

Although many parts of Latin America face economic uncertainty at present, and world trade growth slowed from 12 percent in 2000 to 2 percent in 2001, the new round of global trade liberalization talks proposed at Doha last year and the Bush Administration's efforts on behalf of free and expanded trade should help reignite long-term growth.

Indeed, keeping trade flowing and growing will be a central component in generating global economic growth. At Ex-Im Bank, it's our job to finance exports, whether in difficult times or difficult markets, and to enable governments and private-sector borrowers in emerging markets such as Latin America and the Caribbean to buy from U.S. exporters. While many in the U.S. and Latin America have concerns

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about the health of markets and the availability of financing, Ex-Im Bank will continue to provide financing as it has for sixty-eight years.

Export credit agencies (ECAs) such as Ex-Im Bank consistently play a critical role in filling the financing gaps to emerging markets. Ex-Im Bank provided more than one-quarter of the total medium- and long-term export credits (repayment terms of more than one year) provided by the ECAs of the Organization for Economic Cooperation and Development (OECD). All told, ECAs provided about $34 billion in medium- and long-term export credits.

Globalization and increasing global interdependence are here to stay, and that's good for the consumer and for global economic stability. Indeed, the growth of many emerging markets has lifted more people out of poverty and brought greater prosperity than ever before. The 14-fold increase in trade during the last fifty years has meant better lives for literally hundreds of millions of people. The doubling of U.S. trade with Mexico in just the last seven years, for example, has meant significant improvements in Mexican living standards. For U.S. citizens, the annual benefits of NAFTA and the Uruguay Round of GATT, both negotiated during the 1990s, are estimated at between $1,260 and $2,040 per family.

A recent World Bank study[1] concluded that countries such as China that have opened their economies to trade and investment, have experienced much more rapid economic growth than other countries. The globalizers' economic growth accelerated to 5 percent per year by the 1990s, while developing countries that remained largely cut off from trade and investment saw their economic growth actually decelerate from 3 percent to barely 1 percent.

Another World Bank study estimated that completely abolishing trade barriers and coordinating efforts to promote trade and reforms in developing countries could increase global income by $2.8 trillion and lift 320 million people out of poverty by 2015.[2]

One of the great challenges for the new century is how we can expand the positive forces of globalization while diminishing the negative dimensions. We can jump-start the economic engines of development in a number of ways—through trade, through credit, through targeted micro-loans to emerging market entrepreneurs, and through financing for power plants and infrastructure, transportation and medicines.

That too is something to which Ex-Im Bank contributes. While we are chartered to support U.S. jobs by financing U.S. exports that would not otherwise be possible without our backing, our actions support economic development and growth in emerging markets as well as in the United States.

In FY 2002, Ex-Im Bank authorized $10.1 billion in loans, guarantees, and export credit insurance, which supported nearly $13 billion of U.S. exports to markets around the world. These included more than $3 billion in authorizations for Latin America and the Caribbean.

These authorizations included a $500 million credit facility to Petroleos Mexicanos (Pemex), the Mexican oil company, for two oil and gas exploration and production

projects. This followed a series of long-term loan guarantees to Pemex during the last few years worth more than $1.4 billion to develop oil and gas resources in the Burgos Basin and the offshore Cantarell Oil Field.

Other large projects that Ex-Im Bank has supported in Latin America include a 469-megawatt combined cycle power plant in Araucaria, Brazil, Rio Polimeros, a $1.1 billion integrated ethylene and polyethylene complex in Rio de Janeiro that we are co-financing this with SACE, the Italian export credit agency, and the Brazilian National Development Bank.

Ex-Im Bank's focus on promoting environmentally friendly exports and renewable energy led it to co-sponsor a conference with Banobras, Mexico's development bank, on financing environmental infrastructure projects in Mexico this September. The sold-out conference, which was attended by dozens of Mexican municipal leaders, yielded eighty-seven potential environmental projects.

The Bank has supported the sale of U.S.-made solar power cells to Argentina and Mexico, as well as water-filtration and wastewater-treatment facilities to Brazil and Mexico. The Bank's efforts to become a leader in supporting renewable energy technologies paid off in an export sale by the Maryland-based BP Solar, the world's leading solar electric company, to an Argentine utility that is installing photovoltaic energy panel systems on homes in rural areas of Jujuy province.

In Venezuela, this year, Ex-Im Bank supported U.S.-based Siemens Transportation Systems' export of $62 million in equipment for light rail mass transportation systems in the cities of Maracaibo and Valencia. In addition, the Bank has provided $628 million in financing for equipment to perform oil and gas exploration and production for the Hamaca project in Venezuela.

Telecommunications has been another important export sector that Ex-Im Bank has promoted. Several recent sales have included wireless equipment to Mexico, exported by Motorola and other U.S. companies, and digital cable-TV equipment to Venezuela, exported by Power Telephone Supply Co. of Memphis, Tenn., and Harmonic Inc. of Sunnyvale, Calif.

Lest anyone think that Ex-Im Bank only supports large projects, it has also backed a wide variety of transactions in Latin America and the Caribbean. These have ranged from the sale of jets to LAN Chile and the Panamanian airline COPA to greenhouses to Mexican farmers, hospital equipment for an Evangelical Lutheran hospital in Sao Paulo and equipment for a wastewater treatment plant in the Dominican Republic.

In fact, after Mexico, the Dominican Republic became our second-largest market in Latin America in terms of authorizations in FY 2002, where we backed the export of everything from prefabricated housing and medical equipment to sporting goods and engineering services. But we are also active in smaller markets such as Nicaragua, where we recently facilitated the sales of a variety of farming equipment.

Ex-Im Bank has always had a particularly close relationship with Latin America. During the first decade of the Bank's history, 60 percent of Ex-Im Bank authorizations involved Latin American countries such as Mexico, Panama and the Dominican

Republic. Ex-Im Bank has been engaged with most Latin countries since its very earliest days. It has long-established relationships with commercial banks, development banks, and private-sector companies in the region and in the U.S. that do business with the region.

Ex-Im Bank also has long sought to establish new partnerships and new ways of supporting exports to Latin America. In addition to Banobras, Ex-Im Bank has agreements with Nacional Financiera SNC (NAFIN), Mexico's development bank, which enable Mexican companies to obtain favorable credit terms for their purchases from the United States. This agreement allows NAFIN to finance local Mexican buyers of qualifying U.S. goods and services. In keeping with our mission to focus efforts on small business, Ex-Im Bank recently signed a foreign currency agreement with NAFIN that allows it to offer peso-denominated loans guaranteed by Ex-Im Bank to small and medium-sized enterprises buying U.S. exports.

The Bank is constantly searching ways to grow trade between U.S. and Latin America—especially for small and medium-sized companies. For example, we recently partnered with a financial institution in Mexico to finance short-term trade receivables through a commercial paper facility that will provide qualifying Mexican buyers with lower cost trade financing.

Because local governments and municipalities are often major buyers of everything from transportation to health-care infrastructure, as well as other goods and services, Ex-Im Bank now accepts the credit of qualified cities, states and other sub-sovereign governments in emerging markets for the purchase of U.S. exports. This alternative credit approach allows foreign borrowers with municipal, state and provincial support to gain access to Ex-Im Bank financing to buy products and services to upgrade local infrastructure. In Latin America, this initiative is available in Brazil in the states of Bahia and Ceará, and the city of Rio de Janeiro.

These new Ex-Im Bank programs and policies are part of our continuing efforts to expand and deepen commercial ties between the United States and Latin America. It is in the interests of all people in our hemisphere to work toward that goal.

Free trade and a vibrant market economy are two of the best possible catalysts of economic and political development. This is a direction that promises to strengthen the already strong ties between the United States and Latin America.

Our shared economic interests will enable us to achieve our common goals and strengthen our economic ties. At the Export-Import Bank, we want to be fully engaged in this vibrant relationship in the years ahead.

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Viewpoint

Architecturing A New Global Peace Diplomacy: Of Souls & Civilizations

by Dna. Maria St. Catherine De Grâce Sharpe

The events of September 11, and their global diplomatic, political and military aftermath, have heightened the imperative for a paradigm shift in global diplomacy. What is needed in this third millennium is a *force majeure* paradigmatic shift in the secular philosophy, nature and practice of diplomacy—the management of international human relations—as we have never contemplated and practiced it heretofore. Thus, what is needed foremost is a new philosophy of diplomacy and diplomatic affairs practice that reflects a deeper global political consciousness of the mystical in the context of civilizations clashing on the fault lines of religion and spiritual values. Theology has always been the last of the humanities to find a respectful posture of engagement on the continuum of political interface where the social sciences are concerned—especially in the field of secular diplomatic practice and secular diplomatic affairs studies. A renewed focus on the long dormant subject of irenology, the study of peace from a theological or ecclesiastical perspective, however, is one of the means by which secular diplomatic practitioners, government (embassy), non-governmental, and non-aligned diplomats can bring a much needed paradigm shift to the focus and practice of the overly secular professional diplomatic arts and sciences.

With the proliferation of peace studies associations, institutes, universities and organizations, irenology, derived from the Greek word for peace, *eirini*, is experiencing renewed attention in the professional domains of academia and peace diplomacy. The United Nations in its establishment of the University of Peace in Costa Rica has made irenology the explicit purpose of the University. The International Agreement for the establishment of the United Nations University of Peace in Costa Rica, erected under Resolution 31/111 of 14 December 1979, and Resolution 35/55 of 5 December 1980 by the General Assembly, is one of the few UN documents establishing a peace organization that explicitly commits itself to irenology. Article 17 of the Agreement, which addresses "University Programmes and Degrees" specifically states, "Irenology, which shall comprise the study of peace, education for peace and human

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rights, shall be the main concern of the University. The studies carried out at the University shall focus on the topic of international peace. Completion of a programme of studies, including irenology as a compulsory subject, shall be required for obtaining any degree granted by the University."

This emerging focus on irenology in the present theo-political environment of the clashing of Western values with Islamic ideals needs to be further enhanced and developed in the context of the present evolutionary transformation of secular diplomatic practice. The secular diplomatic arts and sciences and the diplomatic profession must not be a stagnate field which is only propelled to new horizons by the engines of information technology and the multidimensional catalyst of secular globalization. The philosophical essence of secular diplomacy must also experience a commensurate paradigm shift to the realm of spiritual truth. This paradigm shift must be fuelled by the "peace intelligence" of spiritual truths acquired from increased contemplation of spiritual values and their merit to peacebuilding. The ecclesial diplomatic tradition of the Holy See's pontifical diplomacy (the word "pontifical" originating from the Latin term "pontifex" meaning to build bridges) and the emerging field of Islamic diplomacy are able to serve as noteworthy guideposts for the further development of the specialization of theo-irenelogical diplomacy.

While the ecclesial diplomacy of the Holy See has been a sustaining presence in the world since the fourth century and has been the subject of a graduate course titled, "Holy See Diplomacy" at the Catholic University of America for many years, the subject of the diplomacy of Islam is a much newer intellectual, theo-political and diplomatic phenomenon. This increasing professional focus on the diplomacy of Islam is evidenced by the emergence of related books and graduate courses on the subject. A book published by Oxford University Press in 2001, titled, *Diplomacy and Diplomatic Practice in the Early Islamic Era* by Yasin Istanbuli details Islam's long tradition of diplomacy, stemming in part from its early history when the Arab Peninsula separated the Persian and Byzantine Empires. In his book Istanbuli discusses diplomacy as practiced by the Prophet and other rulers in the early period of Islam.

Another interesting development with respect to study of Islamic Diplomacy has been the offering of a course on "Diplomacy in Islam" by Dr. Riad Nourallah of the Diplomatic Academy of London (DAL), located at the University of Westminster, London. Dr. Nourallah's course, which was first offered over three years ago, examines both the continuity and the variety of Islamic political and diplomatic experience from the age of the Prophet and the early Caliphs to modern times, and how Muslim institutions have coped with periods of expansion, retreat and revival. According to the DAL's website the course also explores "the tensions as well as common ground and amicable relations between Islam and Christian Europe down the ages."

While both Catholic ecclesial and Islamic diplomacy have miles to go before their respective professional fields are on a par of advanced refinement with secular diplomatic and international affairs studies, it is time that a theo-irenological

perspective was included in diplomatic and international human relations programs, institutes and graduate training programs. In 2001-2002 Boston University inaugurated a dual master's degree program in Religion and International Relations, which is the centerpiece of the university's Institute on Religion and World Affairs (IRWA). The IRWA was established in September 2000 with a major grant from The Pew Charitable Trusts. The M.A. in Religion and International Relations is jointly sponsored by the Departments of Religion and International Relations, with core course offerings from the faculty of both departments, as well as from the School of Theology faculty and from visiting senior scholars. Now if only diplomatic training institutes and academies in both Western and Islamic countries would emulate such initiatives, theo-irenological diplomacy might have a chance of longevity and sustaining impact. States and diplomats first however must outgrow their aversion to religion and all things spiritual, which are having increasing substantial impact on the triad of diplomacy, intelligence and national security/defense.

The development of theo-irenological diplomacy may take as guides for its 21st century evolution and structural bearings the ecclesial and theological traditions of Catholic Ecclesial and Islamic Diplomacy, but it is not be restricted to these religious traditions. Indeed, fundamental Christian and Judaic traditions also have much to offer the professional development of theo-irenic or theo-irenological diplomacy. The recent establishment of the International Center for Religion and Diplomacy in Washington DC is an example of the emergence of other faith-based diplomatic initiatives for the cause of peace. These initiatives are responding to the signs of the times demanding a new paradigmatic shift from the secular philosophy of diplomatic study and practice to the sacred. Secular diplomacy is not alone able to successfully engage the guerrilla-like theo-political, theo-socio-cultural and theo-militant issues of our time. A faith-based diplomacy dedicated to the high moral excellence of peace, whether founded on Catholic ecclesial doctrine, Islamic values or Judaic principles, contributes much to the nurturing, on the international plane, of a deeper mystical experience of international *human* relations for the cause of peace.

Since man is by nature a spiritual being it should only be expected that the global engagement of humanity should not be void of the spiritual values which underlie the raison d'etre of diplomacy as the management of international human relations. A professional paradigmatic shift from secular to theo-irenological diplomacy will enable the sovereign states and diplomats of the 21st century to move from a stagnate, secular diplomacy to an evolutionary diplomacy imbued with a spiritual "consciousness of humanity." States would do well to integrate such theo-irenological courses into their diplomatic training curricula or suffer the consequences of diplomats who are spiritually inept in an increasing theo-political and theo-militant global environment. The same could be applied to the training of military and intelligence officers. This new spiritually imbued global diplomacy will not only architect a new interdisciplinary peace intelligence dynamic, but will also help to architect and make real the kind of just sustainable peace diplomacy works so hard to achieve for the sake of eternal truth, the sovereignty of souls and the cause of enduring civilizations.