

# **Deliberating Preventative War: The Strange Case of Iraq's Disappearing Nuclear Threat**

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# Deliberating Preventative War: The Strange Case of Iraq's Disappearing Nuclear Threat

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The Bush administration's so-called "war on terrorism" has been waged using a diverse array of military and non-military policy instruments. While the armed conflict in Afghanistan initially attracted the most attention, the anti-terror effort has also emphasized more vigorous intelligence gathering and worldwide sharing of information, new and contentious law enforcement initiatives, and increased monitoring of financial transactions and banking practices. The most controversial weapon in the war on terror is the "preemptive war" option mentioned almost in passing by the President in a commencement address at West Point in June 2002<sup>2</sup> and without extensive explanation in the September 2002 document issued by the White House, *The National Security Strategy of the United States of America*.<sup>3</sup> Later, Secretary of State Colin Powell, in fact, condemned the Bush administration's domestic and foreign critics for over-emphasizing the importance of preemptive use of force in the foreign policy toolkit. Powell boasted that the NSS is a "remarkably candid" public pronouncement of U.S. strategy, but worried that American policy had been misunderstood and distorted by domestic and foreign

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<sup>1</sup> Prepared for a meeting of the Ridgway Center's Working Group on Preventive and Preemptive Military Intervention, University of Pittsburgh. An earlier version of this paper was presented at the Working Group's meeting at the Carnegie Endowment for International Peace, Washington, DC., February 7 – 8, 2004. I want to thank other workshop participants for their comments, especially Pete Dombrowski, Bill Keller, Gordon Mitchell, Janne Nolan, and Greg Thielmann.

<sup>2</sup> White House Office of the Press Secretary, "Commencement Address at the United States Military Academy in West Point, New York," June 1, 2002, 38 *Weekly Compilation of Presidential Documents*, 2002, 944 – 48.

<sup>3</sup> White House Office of Homeland Security, *The National Security Strategy of the United States of America*, September 2002, available at <http://www.whitehouse.gov/nsc/nss.pdf>. Hereafter, I will refer to this document simply as NSS.

critics.<sup>4</sup> According to the Secretary of State, every U.S. President has retained the option of preemptive war to address certain kinds of threats. The novelty in this case, to Powell, is the explicit public declaration of the strategy.<sup>5</sup>

However, the Secretary greatly understated the unique nature of the administration's preemption strategy. It is true that U.S. Presidents, as well as the leaders of other states, have long held the legal option to utilize preemptive force in self-defense. However, as the latest NSS boldly declares, the United States has now asserted that traditional understandings of international law pertaining to the potential defensive use of military force are flawed. Historically, a state could legitimately launch a preemptive attack when facing "visible mobilization of armies, navies and air forces preparing to attack."<sup>6</sup> Such tangible evidence would indicate the existence of an imminent threat. The Bush administration rejected this traditional view because terrorists are prepared to strike without warning against innocent civilians. Administration officials worried especially about potentially undeterrable threats posed by the proliferation of weapons of mass destruction to hostile regimes working with terrorists of global reach. Because of the apparently changed circumstances justifying an American attack, the military strategy publicly advocated by the Bush administration to meet such contemporary threats is not the same form of preemption that political leaders have previously and privately held in reserve.

By making the preemptive attack option publicly so explicit, and by openly attempting to alter the standards justifying the use of force in self defense, the Bush administration initiated an

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<sup>4</sup> Colin L. Powell, "A Strategy of Partnerships," 83 *Foreign Affairs*, (January/February 2004): 23 – 24.

<sup>5</sup> Scholars and policy analysts examining deterrence have long distinguished between declaratory and operational strategies. See Donald M. Snow, "'Levels of Strategy and American Strategic Nuclear Policy," *Air University Review*, Vol. 35, No. 1, (November-December 1983): 63-73, available at <http://www.airpower.maxwell.af.mil/airchronicles/aureview/1983/Nov-Dec/snow.html>.

<sup>6</sup> NSS, p. 15.

intense debate about this aspect of its anti-terror strategy. Many experts claimed that the United States has now embraced a strategy more akin to preventative war, which has long been viewed as illegal under international law.<sup>7</sup> Numerous outspoken critics additionally worry that the new standard has set an extremely risky precedent for international politics. Historian Paul Schroeder offered a sweeping indictment, charging that:

A more dangerous, illegitimate norm and example can hardly be imagined. As could easily be shown by history, it completely subverts previous standards for judging the legitimacy of resorts to war, justifying any number of wars hitherto considered unjust and aggressive....It would in fact justify almost any attack by any state on any other for almost any reason. This is not a theoretical or academic point. The American example and standard for preemptive war, if carried out, would invite imitation and emulation, and get it.

Critics fear that states like India, Israel, and Russia might embrace the new logic of preemption and employ it to justify attacks on various foes. This would likely make the world much more dangerous.

In addition to making the world more unsafe, preemption has changed domestic politics as well. Political scientist John Mearsheimer has argued that the Bush government's confounding of the terms "preemption" and "prevention" has great rhetorical and normative significance and was undoubtedly crafted to influence the public debate in a favorable direction. "The Bush Administration has gone to great lengths to use 'preemption' when what it's really talking about is 'preventive' war. Language matters greatly. It lends legitimacy to the administration's case. Saying it's a 'preemptive' war gives it a legitimacy that you don't get if you say it's a 'preventive' war."<sup>8</sup>

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<sup>7</sup> Even sympathetic voices have made this point. See Robert Kagan's *Afterward, "American Power and the Crisis of Legitimacy," Of Paradise and Power* (New York: Vintage Books, 2004), at 139n.

<sup>8</sup> Quoted in Marja Mills, "Waging a War of Euphemisms," *Chicago Tribune*, October 17, 2002, p. 1, available in NewsBank, Record Number: CTR0210170003.

The administration, of course, stirred up intense domestic and international criticism for its decision to employ this new military strategy against Iraq, a nation with no apparent ties to the September 11, 2001 attacks against the United States.<sup>9</sup> President Bush and his closest security advisors spent much of 2002 focusing the “war on terror” on Iraq and building support for the plan to topple Saddam Hussein’s government by force. In January of that year, Bush controversially claimed that Iraq, Iran, North Korea, and affiliated terrorist groups were part of an “axis of evil” that posed a “grave and growing danger” because of their pursuit of weapons of mass destruction.<sup>10</sup> In February 2002, Bob Woodward of the *Washington Post* quoted the President as saying on September 17, 2001, “I believe Iraq was involved [in the 9/11 attacks], but I’m not going to strike them now.”<sup>11</sup> Then, in a speech before the United Nations General Assembly in September of that year, Bush specifically called Iraq under Saddam Hussein’s rule a “great and gathering danger” because of his apparent pursuit of “weapons of mass murder.”<sup>12</sup> Throughout fall 2002, Bush often linked Iraq and the al Qaeda terrorists that perpetrated the 9/11

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<sup>9</sup> Secretary of State Powell noted on January 8, 2004, that he had “not seen smoking-gun, concrete evidence about the connection” between Iraq and al-Qaida. See Christopher Marquis, “Powell Admits No Hard Proof In Linking Iraq to Al Qaeda,” *New York Times*, January 9, 2004, p. A10. In September 2003, President Bush declared, “We’ve had no evidence that Saddam Hussein was involved with September the 11th.” See Terence Hunt, “Bush: No Proof of Saddam Role in 9-11,” Associated Press Online, September 17, 2003.

<sup>10</sup> White House Office of the Press Secretary, “Address Before Joint Session of the Congress on the State of the Union Address,” January 29, 2002, 38 *Weekly Compilation of Presidential Documents*, 2002, 133 – 139.

<sup>11</sup> Bob Woodward and Dan Balz, “Combating Terrorism: ‘It Starts Today,’” *The Washington Post*, February 1, 2002, p. A1. The President then apparently added, “I don’t have the evidence at this point.” The pundit Laurie Mylroie left out this caveat when discussing Bush’s views. See Mylroie, “The Circle of Terror,” NRO (National Review Online), February 19, 2003, available at <http://www.nationalreview.com/comment/comment-mylroie021903.asp>.

<sup>12</sup> White House Office of the Press Secretary, “Address to the United Nations General Assembly in New York City,” September 12, 2002, *Weekly Compilation of Presidential Documents*, 2002, p. 1531. Colin Powell suggested on several occasions that Iraq was not an example of preemptive attack. See, e.g., U.S. Department Of State, Office of the Spokesman, “Interview with Secretary Of State Colin L. Powell by International Wire Services,” March 18, 2003, available at <http://usinfo.state.gov/mena/Archive/2004/Feb/05-814752.html>.

attacks. “The danger,” he argued, “is that they work in concert. The danger is, is that al Qaeda becomes an extension of Saddam's madness and his hatred and his capacity to extend weapons of mass destruction around the world. Both of them need to be dealt with....you can't distinguish between al Qaeda and Saddam when you talk about the war on terror.”<sup>13</sup> A few weeks later, referencing fears that Iraq was acquiring nuclear weapons, Bush explicitly invoked the administration’s logic justifying early attack: “Facing clear evidence of peril, we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud. We cannot stand by and do nothing while dangers gather.”<sup>14</sup>

Administration critics claim that the failure to find nuclear, biological, or chemical weapons in Iraq quite strongly suggests that the administration distorted the prewar debate about Iraq. This is a very serious concern. Government participants in national security debate can undercut the purpose of public deliberation by employing what communications scholar Gordon R. Mitchell calls “strategic deception.”<sup>15</sup> Such governmental trickery is troublesome on matters of war and peace because official participants in public debates about national security policy have substantial advantages over non-governmental participants. Public officials’ job titles grant them authority and credibility, which is further secured by their unique access to classified information.<sup>16</sup> Public debate about national security will be greatly distorted in the government’s

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<sup>13</sup> White House Office of the Press Secretary, “Remarks Prior to Discussions With President Alvaro Uribe of Columbia and an Exchange With Reporters,” September 27, 2002, *Weekly Compilation of Presidential Documents*, 2002, p. 1619.

<sup>14</sup> White House Office of the Press Secretary, “Address to the Nation on Iraq,” Cincinnati, Ohio, October 7, 2002, *Weekly Compilation of Presidential Documents*, 2002, p. 1718.

<sup>15</sup> See Gordon R. Mitchell, *Strategic Deception; Rhetoric, Science, and Politics in Missile Defense Advocacy* (Lansing: Michigan State University, 2000). See also Rodger A. Payne, “The Politics of Defense Policy Communication: The ‘Threat’ of Soviet Strategic Defense,” 8 *Policy Studies Review*, (1989): 505 – 26.

<sup>16</sup> Chaim Kaufmann, “Threat Inflation and the Failure of the Marketplace of Ideas: The Selling of the Iraq War,” 29 *International Security*, (Summer 2004): 41.

favor if authoritative figures exploit their advantages by dubiously overemphasizing evidence that supports their arguments and by ignoring and/or blocking the release of countervailing evidence and caveats. Many political theorists and analysts argue that open and inclusive political debate rewards the ideas that best withstand critical scrutiny in the political marketplace.<sup>17</sup> Indeed, this is a position often taken by classic liberal theorists such as John Stuart Mill and Frankfurt-school critical theorists such as Jürgen Habermas. The evidence presented in this paper substantiates the great danger of distorted debate about the alleged need for preventive war.

In the first section of the following pages, I argue that Bush administration officials clearly recognized the potential risks posed by the new preventative military intervention strategy and thus sought to establish deliberative standards for implementing the policy. Indeed, the standards they put forward would appear to be very difficult to meet in the future and may make the U.S. invasion of Iraq a historically unique case. Next, in the longest section of this paper, I demonstrate that the Bush administration's public justifications for attacking Iraq because of its alleged nuclear capabilities were distorted in a number of very important ways. These distortions undercut the deliberative ideals advanced by the Bush administration and provide fertile ground for critics of U.S. policy. Additionally, the virtually inevitable and ongoing revelation of these sorts of distortions serve to invite even greater public scrutiny of potential U.S. applications of preventative strategies against other threatening adversaries in the future. Indeed, these distortions might well make it unlikely that Washington can employ preemption as it has been historically understood, even when facing serious risk of attack. Thus,

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<sup>17</sup> For further elaboration of this point, see Rodger A. Payne and Nayef H. Samhat, *Democratizing Global Politics; Discourse Norms, International Regimes and Political Community* (Albany: State University of New York Press, 2004).

I conclude by outlining the possible adverse security implications associated with the public declaration of an empty doctrine with the potential to constrain government action in the future.

## **The Limits of Preventative War**

Official public justifications emanating from the Bush White House have attempted to limit significantly the prospective applicability of the new military strategy of preemption, despite public boasts that the country's "best defense is a good offense."<sup>18</sup> The administration has seemed to recognize the potential danger of tampering with international standards justifying preemptive war. This section summarizes the boundaries U.S. policymakers have sought to establish on the future employment of this new strategic doctrine.

The NSS bluntly warns other states not to "use preemption as pretext for aggression."<sup>19</sup> In the NSS document and elsewhere, U.S. officials have therefore sought to establish standards for justifying preventative attack that intentionally narrow its potential applicability. Put simply, the administration has made an explicit promise to use force only as a last resort, after working with U.S. allies to establish the existence of a very grave threat that cannot be addressed in any non-military fashion.<sup>20</sup> The administration's political machinations vis-à-vis Iraq during 2002 and early 2003 also signaled the importance the Bush White House placed on public justification of its case for preemptive war. As the NSS asserts in regard to potential applications of the preemptive option, "the reasons for our actions will be clear."<sup>21</sup> In September and October 2002,

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<sup>18</sup> NSS, p. 6.

<sup>19</sup> NSS, p. 15.

<sup>20</sup> A more thorough version of this argument can be found in Peter J. Dombrowski and Rodger A. Payne, "Global Debate and the Limits of the Bush Doctrine," *International Studies Perspectives* 4 (November 2003):395 – 408.

<sup>21</sup> NSS, p. 16.



the President himself delivered widely broadcast speeches before the United Nations and to the American public. Eventually, in early February 2003, then Secretary of State Colin Powell was sent to the United Nations to present America's best intelligence evidence about Iraq's misdeeds, in the obvious hope of winning broad political support both at home and abroad.

The NSS document says that "The United States will not use force in all cases to preempt emerging threats.... We will always proceed deliberately, weighing the consequences of our actions." The strategic plan further notes that the United States will "coordinate closely with allies to form a common assessment of the most dangerous threats."<sup>22</sup> According to then National Security Advisor Condoleezza Rice, the new military strategy requires the United States to pursue diplomatic solutions with the potential targets of attack, until it becomes apparent that those options will fail. In fact, in a public address before The Manhattan Institute for Policy Research delivered shortly after the NSS was published, Rice offered an impressive list of caveats to the preventative strategy:

This approach must be treated with great caution. The number of cases in which it might be justified will always be small. It does not give a green light—to the United States or any other nation—to act first without exhausting other means, including diplomacy. Preemptive action does not come at the beginning of a long chain of effort. The threat must be very grave. And the risks of waiting must far outweigh the risks of action.<sup>23</sup>

On a number of occasions, Secretary Powell indicated that the case for using force against Iraq was unique precisely because of the prior twelve years of failure to achieve diplomatic success, combined with Iraq's horrible compliance record on a lengthy list of UN Security Council resolutions. The Bush administration's ability to achieve unanimous support for UN Security Council Resolution 1441 convinced many observers that the U.S. view of the Iraq crisis was

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<sup>22</sup> NSS, pp. 15 – 6.

<sup>23</sup> Condoleezza Rice, "A Balance of Power That Favors Freedom," 2002 Wriston Lecture, Manhattan Institute for Policy Research, New York City, Oct. 1, 2002, available at <http://www.manhattan-institute.org/html/wl2002.htm>.

widely shared. However, the administration and its British allies ultimately failed to win a second UN Security Council resolution specifically authorizing war against Iraq. France, Germany, and Russia, for example, managed to send repeated and clear signals about their dissent.<sup>24</sup> These states were content to let ongoing weapons inspections take their course.

Even as the Iraq debate raged, however, the United States indicated that it had strong reservations about the application of the preventative U.S. military strategy to states other than Iraq. Secretary Powell, for instance, reassured the American people and the rest of the world that the US did not have a “cookie cutter policy for every situation” and would vigorously pursue diplomatic solutions rather than attack North Korea and Iran in regard to their apparent efforts to acquire nuclear weapons.<sup>25</sup> Evidently, U.S. policy makers did not think that all measures short of using force had been exhausted in these cases. Cynics might point out that it would be materially quite difficult to attack either North Korea or Iran with large number of active forces deployed (or otherwise committed to troop rotations) in Afghanistan and Iraq. Still, the political implications of the U.S. effort to limit preemptive doctrine to Iraq are significant. If Washington does not plan to use military force against two-thirds of the “axis of evil” states, each with relatively advanced nuclear capabilities that gained renewed attention as the United States was pushing toward war in Iraq, it is difficult to imagine another viable target state.

Moreover, even in the case of Iraq, the United States claimed for many months that it would employ force only reluctantly and would prefer a non-military solution. While Washington ultimately used force against Iraq without explicit UN Security Council

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<sup>24</sup> Dombrowski and Payne, “Global Debate.”

<sup>25</sup> U.S. Department Of State, Office of the Spokesman, Interview, Secretary of State Colin L. Powell on CNN's Late Edition with Wolf Blitzer, “Powell Says Time Is Running Out for Iraq to Comply With UN,” January 19, 2003, available at <http://usinfo.state.gov/xarchives/display.html?p=washfile-english&y=2003&m=January&x=20030119162306DDenny@pd.state.gov0.1734735&t=xarchives/xarchitem.html>.

authorization, President Bush initially claimed not to have made up his mind about the appropriate action necessary to address Iraq's threat. Arguably, in making such a claim and attempting to "sell" the need for war against Iraq, U.S. officials implicitly established a requirement for public deliberation. More explicitly, starting in September and throughout the fall of 2002, the President and other officials called for public and political debate about U.S. policy toward Iraq. The President, for instance, actively sought input from the Congress, even as the overwhelming majority of its members were engaged in reelection efforts. In a letter dated September 3, 2002, the President wrote to members of Congress, "This is an important decision that must be made with great thought and care. Therefore, I welcome and encourage discussion and debate."<sup>26</sup> That same week, the President remarked at a political campaign stop that he wanted to provoke an even broader "debate...to encourage the American people to listen to and have a dialog about Iraq....I want there to be an open discussion about the threats that face America."<sup>27</sup> The Congress obliged the President's request by conducting nearly a week of floor debate during the fall of 2002.

Public deliberation, naturally, included citizens talking with one another on coffee breaks and across dinner tables as well as various foreign policy elites attempting to influence the wider public through assorted mass media. After former Republican House Majority Leader Dick Armey publicly questioned the need to attack Iraq without provocation, Defense Secretary Donald H. Rumsfeld declared, "I think it's important for people to say what they think on these things. And that's the wonderful thing about our country. We have a public debate and dialogue

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<sup>26</sup> George Bush, "Bush letter: 'America intends to lead'," CNN, Sept. 4, 2002, available at <http://www.cnn.com/2002/ALLPOLITICS/09/04/bush.letter/>.

<sup>27</sup> White House Office of the Press Secretary. "Remarks at a Luncheon for Representative Anne M. Northup in Louisville," Sept. 6, 2002, *Weekly Compilation of Presidential Documents*, 2002, p. 1498.

and discussion on important issues.”<sup>28</sup> Perhaps to signal that the Administration did not merely see the need to engage the domestic electorate, President Bush also sought input from the international community, especially the leadership of other prominent states, such as fellow permanent UN Security Council members China, France, Great Britain and Russia. “The international community must also be involved,” declared the President. “I have asked [British] Prime Minister Blair to visit America this week to discuss Iraq. I will also reach out to President Chirac of France, President Putin of Russia, President Jiang of China, and other world leaders.”<sup>29</sup>

The Bush administration proved to be a vigorous participant in the public debates about both the prevention strategy and its apparent application to Iraq. Nonetheless, based upon what numerous public officials said about Iraq, it would be difficult to imagine that other potential cases will easily meet the criteria for the revised version of preemptive war. Foreign policy officials, including the President, explicitly and implicitly imposed significant limits on the application of the new strategy. Preventative use of force must be the last resort against a threat that is internationally agreed to pose grave threat and the use of force must follow the utmost diplomatic efforts. The United States has already announced, as evidence of North Korean and Iranian nuclear proliferation mounts, that it seeks non-military solutions to the threats emanating from the other members of the “axis of evil.” Perhaps most importantly, government officials by their words and deeds instilled a deliberative standard for preventative military attacks.

Some onlookers, euphoric about the immediate military successes, wanted the United States to push ahead and confront Syria after the first weeks of the Iraq war. Cooler heads

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<sup>28</sup> Quoted by George Gedda, Associated Press, “Bush: No timetable for a decision on attacking Iraq,” *Pittsburgh Post-Gazette*, Aug. 10, 2002, available at <http://www.post-gazette.com/nation/20020809iraqplannat2p2.asp>.

<sup>29</sup> George W. Bush, “Bush letter: ‘America Intends to Lead,’” CNN, Sept. 4, 2002, available at <http://www.cnn.com/2002/ALLPOLITICS/09/04/bush.letter/>.

obviously prevailed, especially once the growing strength of the insurgency in Iraq tempered even the most vocal war enthusiasts. However, the lack of significant public debate about Syria may also have played a meaningful role in limiting the combat to Iraq. George Herbert Walker Bush's Secretary of State Lawrence Eagleburger told the BBC at the time that the American political system, which requires public input into such policy choices, precluded this exact possibility: "If George Bush (Jr) decided he was going to turn the troops loose on Syria and Iran after that he would last in office for about 15 minutes. In fact if President Bush were to try that now even I would think that he ought to be impeached. You can't get away with that sort of thing in this democracy."<sup>30</sup> Eagleburger added that the very idea of invading a second country after Iraq was "ridiculous," given the "furor" that preceded the Iraq war, and that "public opinion and the public, still, on these issues rules."

## **Background to the Iraq Weapons Debate**

The primary rationale for the U.S. attack on Iraq was Saddam Hussein's alleged nuclear, chemical and biological weapons stockpiles and programs. Iraq's suspected connections to international terrorism also played an important role in justifying U.S. action. The attack was not sold as a humanitarian or democratizing mission, however; the war was not sold because Hussein was a horrible tyrant. Then Deputy Secretary of Defense Paul Wolfowitz, widely viewed as one of the key policy architects of the Iraq war, told an interviewer that "the criminal treatment of the Iraqi people...is a reason to help the Iraqis but it's not a reason to put American kids' lives at

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<sup>30</sup> Quoted by Ben Russell, "U.S. Warns Syria Not to Provide Haven for Wanted Iraqis," *The Independent* (UK), April 14, 2003, available at <http://www.commondreams.org/headlines03/0414-01.htm>. See also James Hardy, "Bush's Calls to Syrians," *The Mirror* (UK), April 14, 2003, available at <http://www.mirror.co.uk/news/allnews/page.cfm?objectid=12844873&method=full&siteid=50143&headline=BUSH%27S%20CALL%20TO%20SYRIANS>.

risk, certainly not on the scale we did it.”<sup>31</sup> Wolfowitz, describing the dynamics and arguments advanced in the internal discussion, further acknowledged that Iraq’s alleged links to external terrorism was the rationale presenting “the most disagreement within the bureaucracy.” Iraq, of course, it turns out, was not involved in the 9/11 terrorist attacks, and very little evidence has ever tied Saddam Hussein to al Qaeda. Ultimately, the National Commission on Terrorist Attacks Upon the United States (commonly known as the 9/11 Commission) reported in summer 2004 that “to date we have seen no evidence that these or the earlier contacts [between Iraqi officials and al Qaeda members] ever developed into a collaborative operational relationship. Nor have we seen any evidence indicating that Iraq cooperated with al Qaeda in developing or carrying out any attack against the United States.”<sup>32</sup>

Thus, it should not be surprising that in late 2002 and early 2003 the Bush administration, in the words of Paul Wolfowitz, “settled on the one issue that everyone could agree on which was weapons of mass destruction as the core reason” for war. Secretary Powell made an even stronger statement about the centrality of this rationale in October 2002, in a nationally televised interview: “All we are interested in is getting rid of those weapons of mass destruction. We think the Iraqi people would be a lot better off with a different leader, a different regime, but the principal offense here are weapons of mass destruction...the major issue before us is disarmament.”<sup>33</sup> Additionally, in his last pre-war press conference in March 2003, President

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<sup>31</sup>United States Department of Defense, Deputy Secretary Wolfowitz Interview with Sam Tannenhaus, Vanity Fair,” May 9, 2003, available at <http://www.defenselink.mil/transcripts/2003/tr20030509-depsecdef0223.html>.

<sup>32</sup> National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (Washington, DC: USGPO, 2004), p. 66. At various times, however, al Qaeda sponsored anti-regime forces within Iraq.

<sup>33</sup> Colin Powell, “Interview on NBC’s Meet the Press with Tim Russert,” NBC’s “Meet the Press,” Washington, DC, Oct. 20, 2002, available at <http://usinfo.state.gov/xarchives/display.html?p=washfile-english&y=2002&m=October&x=20021021101237eichler@pd.state.gov0.9141504&t=xarchives/xarchit.html>.

Bush bluntly declared, “Our mission is clear in Iraq. Should we have to go in, our mission is very clear: disarmament.”<sup>34</sup> Despite the administration’s numerous assertions about great and growing threats from Iraqi arsenals, it now looks as if the case for attacking Iraq was built upon various distortions of the public debate. Put simply, the world’s most dangerous weapons were not present in Iraq.

Obviously, a comprehensive review of the quality of the pre-war intelligence data about Iraq’s unconventional weapons would take much more space than is available. The U.S. Senate’s Select Committee on Intelligence, for example, issued a 511 page report on this topic in July 2004 and the final report of the U.S. weapons search team in fall 2004 includes more than 1000 pages. The next section of this paper focuses on the major public distortions of the intelligence about alleged Iraqi nuclear weapons, which were arguably the most egregious points raised in the debate. It emphasizes the way the Bush administration publicly employed the information available to it, rather than on the accuracy of the intelligence itself. However, it should certainly be noted that an array of governmental and nongovernmental agencies, as well as various academics and journalists, have reviewed the pre-war intelligence data and have concluded that it was rife with substantial errors that inflated the threat. For example, systematic evaluation of the pre-war intelligence about Iraq’s alleged unconventional weapons and terrorist connections by the Senate Select Committee on Intelligence concluded that the information was quite flawed. Put simply, Iraq did not have threatening stockpiles and there was very little reason to believe that it would have worrisome programs in the foreseeable future. The Committee devoted substantial attention to the National Intelligence Estimate (NIE) dated

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<sup>34</sup> White House Office of the Press Secretary, “President George Bush Discusses Iraq in National Press Conference,” March 6, 2003, *Weekly Compilation of Presidential Documents*, 2003, p. 304.

October 1, 2002, which was the most important summary of pre-war data prepared by the intelligence community and made available to American policymakers:

The major key judgments in the NIE, particularly that Iraq “is reconstituting its nuclear program,” “has chemical and biological weapons,” was developing an unmanned aerial vehicle (UAV) “probably intended to deliver biological warfare agents,” and that “all key aspects—research & development (R&D), production, and weaponization—of Iraq’s offensive biological weapons (BW) program are active and that most elements are larger and more advanced than they were before the Gulf War,” either overstated, or were not supported by, the underlying intelligence reporting provided to the Committee.<sup>35</sup>

The Senate Committee found that the intelligence community’s conclusions reflected pessimistic biases and serious mistakes of tradecraft. Moreover, the NIE did not adequately explain the uncertainties surrounding the quality of the evidence. Analysts from the Carnegie Endowment for International Peace and other nongovernmental organizations that have reviewed the publicly available data also concluded that the case for war against Iraq was built on very weak evidence.<sup>36</sup>

After more than 18 months U.S. government inspections by hundreds of highly trained personnel, the Iraq Survey Group, the effort was only able to assemble evidence of “dozens of weapons of mass destruction-related program activities” rather than actual Iraqi weapons or weapons-production infrastructure.<sup>37</sup> The original chief weapons inspector, David Kay, left Iraq

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<sup>35</sup> In July, the Senate Select Committee on Intelligence issued its lengthy *Report on the U.S. Intelligence Community’s Prewar Intelligence Assessments on Iraq* (Washington, DC: USGPO, 2004). The report focuses on the content of the intelligence assessments, rather than on its use by the Bush administration. Reports about the use of the intelligence are due in 2005, from the Senate Select Committee on Intelligence and from the bipartisan Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (the so-called Silberman-Robb Commission).

<sup>36</sup> Joseph Cirincione, Jessica T. Mathews, and George Perkovich, with Alexis Orton, *WMD IN IRAQ: Evidence and Implications* (Washington, DC: Carnegie Endowment for International Peace, 2004). See also David Isenberg and Ian Davis, *Unravelling the Known Unknowns: Why no Weapons of Mass Destruction have been found in Iraq*, BASIC (British American Security Information Council) Special Report, Jan. 2004, available at <http://www.basicint.org/pubs/Research/2004WMD.pdf>.

<sup>37</sup> White House Office of the Press Secretary, “Address Before a Joint Session of the Congress on the State of the Union,” Jan. 20, 2004, 40 *Weekly Compilation of Presidential Documents*, 2004, 94 – 101.



in December 2003 and resigned his position a month later. Kay apparently considered the search to be a pointless waste of time. He subsequently gave numerous interviews and speeches stating that Iraq had no weapons to find and that an enormous pre-war intelligence failure had occurred. In July 2004, Kay declared that the Bush administration should abandon its “delusional hope” of finding such weapons in Iraq.<sup>38</sup> Finally, on September 30, 2004, Kay’s replacement, Charles Duelfer, presented the *Comprehensive Report of the Special Advisor to the DCI on Iraq’s WMD*.<sup>39</sup> While Duelfer emphasizes that Saddam Hussein very badly wanted various unconventional weapons, and that corruption in the oil-for-food program may have provided an economic resource base to develop such arms in the future, the regime destroyed its chemical stockpile and ended its nuclear program in 1991. The Duelfer report also reports that Saddam then abandoned its biological program in 1996 after the destruction of his key research facility. Duelfer’s report further concluded that Hussein wanted such weapons to assure Iraq’s position in the region and to threaten Iran, not to attack the United States.

Given that the intelligence undergirding the central argument for war was fatally flawed, the public debate about the need for war was bound to be greatly distorted. Under ordinary circumstances, third party observers should perhaps absolve errors made by any administration that relies upon faulty information, so long as it uses the best available data in a manner that reflects good faith. How can policymakers, after all, be blamed as consumers for the errors of those that produce the poor intelligence? In reality, this question is not appropriate to the Iraq situation. In the pages to follow I argue that the Bush administration knowingly overstated some of the intelligence community’s most important assessments of the Iraqi threat and also

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<sup>38</sup> Tabassum Zakaria for Reuters, “Give Up 'Delusional Hope' of Iraq WMD, Kay Says,” July 28, 2004, available at [http://abcnews.go.com/wire/US/reuters20040728\\_479.html](http://abcnews.go.com/wire/US/reuters20040728_479.html).

<sup>39</sup> *Comprehensive Report of the Special Advisor to the DCI on Iraq’s WMD*, 30 Sept. 2004, available at [http://www.cia.gov/cia/reports/iraq\\_wmd\\_2004/](http://www.cia.gov/cia/reports/iraq_wmd_2004/).

employed dubious rhetorical strategies that ultimately over-emphasized alleged weapons developments in the public debate. This had a serious negative effect on public deliberations.

## **Debate Distorted: Inflating the Nuclear Threat**

As former intelligence analyst and National Security Council staffer Kenneth M. Pollack has argued, Iraq's alleged nuclear program "was the real linchpin of the Bush Administration's case for an invasion."<sup>40</sup> Indeed, a recent scholarly study found that many members of Congress "gave the nuclear threat as the main or one of the main reasons for their votes" supporting the war resolution in October 2002.<sup>41</sup> Yet, it is now virtually certain that the administration publicly exaggerated the status of the Iraqi nuclear program. Officials strategically manipulated their pre-war rhetoric about the Iraqi threat so as to mislead the general public and mass media. This often meant, for instance, blurring certain kinds of policy distinctions that would otherwise have suggested greater caution on the path to war. In many cases, moreover, it meant sounding strongly certain rather than relaying the real ambiguity about key evidence, thus implying the worst about the Iraqi threat.

Though the Bush administration apparently started planning for war against Iraq soon after the 9/11 attacks, and frequently claimed that the ongoing "war on terror" would have to include states like Iraq that allegedly sponsored terrorism, it did not begin serious public discussion about Iraq threats until late summer 2002. On August 26, 2002, for example, Vice President Dick Cheney delivered a widely noted speech to the Veterans of Foreign Wars. In that address, Cheney declared with great certainty that "we now know that Saddam has resumed his

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<sup>40</sup> Kenneth M. Pollack, "Spies, Lies, and Weapons: What Went Wrong," *The Atlantic Monthly*, vol. 293, January/February 2004, p. 81.

<sup>41</sup> Kaufmann, "Threat Inflation," 31.

efforts to acquire nuclear weapons....Many of us are convinced that Saddam will acquire nuclear weapons fairly soon.”<sup>42</sup> This comment preceded by about five weeks the production of the NIE that was later carefully scrutinized by the Senate Intelligence Committee. Soon, the image of a potential “mushroom cloud” caused by an Iraqi bomb was invoked prominently by both the President and his National Security Advisor, Condoleezza Rice. While President Bush used the phrase in his October 7, 2002, speech in Cincinnati, Rice made worldwide headlines when she uttered these words in an interview with CNN on September 8, 2002: “The problem here is that there will always be some uncertainty about how quickly he [Saddam Hussein] can acquire nuclear weapons. But we don't want the smoking gun to be a mushroom cloud.”<sup>43</sup> Again, Rice’s comments preceded the production of the NIE by many weeks.

The administration strongly implied that the worst fears were not abstract risks but were related to concrete threats. This certainty often was made more concrete sounding by specific time references. The President himself declared in mid-September: “Should his [Saddam Hussein’s] regime acquire fissile material, it would be able to build a nuclear weapon within a year.”<sup>44</sup> Just days before the war was launched, on the Sunday morning NBC television program “Meet the Press,” Vice President Cheney told journalist Tim Russert that Saddam Hussein “has been absolutely devoted to trying to acquire nuclear weapons. And we believe he has, in fact,

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<sup>42</sup> White House Office of the Press Secretary, “Vice President Speaks at VFW 103<sup>rd</sup> National Convention,” Aug. 26, 2002, available at <http://www.whitehouse.gov/news/releases/2002/08/20020826.html>. Cheney noted that the information was obtained from defectors.

<sup>43</sup> CNN Transcript, “Interview with Condoleezza Rice,” *CNN Late Edition with Wolf Blitzer*, Sept. 8, 2002, Transcript #090800CN.V47, available at <http://www.cnn.com/TRANSCRIPTS/0209/08/le.00.html>.

<sup>44</sup> White House Office of the Press Secretary, “The President’s Radio Address,” Sept. 14, 2002, 38 *Weekly Compilation of President Documents*, 2002, p. 1546.

reconstituted nuclear weapons.”<sup>45</sup> Altogether, these various statements surely helped create the very strong and false impression that Iraq had an active and dangerous nuclear weapons program that was precariously close to success. According to a USA Today/CNN/Gallup national poll conducted from January 31 to February 2, 2003 (just after the President’s “State of the Union” address), 28 % of the respondents were “certain” that “Iraq has nuclear weapons,” while another 49 % said that it was “likely, but not certain.”<sup>46</sup>

However, the nuclear threat was not nearly as grave as the administration suggested. This was fairly well known to foreign policy elites prior to the start of the war. Indeed, before the terror attacks of 9/11 (and thus long before the fall 2002 buildup to war) some prominent Bush administration officials had publicly asserted that Iraq had not developed threatening programs. Secretary of State Colin Powell, for example, noted in early 2001 that “the sanctions exist—not for the purpose of hurting the Iraqi people, but for the purpose of keeping in check Saddam Hussein’s ambitions toward developing weapons of mass destruction....And frankly they have worked. He has not developed any significant capability with respect to weapons of mass destruction.”<sup>47</sup> Condoleezza Rice, while serving in 2000 as George Bush’s primary foreign policy advisor, wrote in *Foreign Affairs* that “rogue regimes” like Iraq were “living on borrowed time, so there need be no sense of panic about them. Rather, the first line of defense should be a

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<sup>45</sup> NBC News Transcripts, “Vice President Dick Cheney discusses a possible war with Iraq,” *Meet the Press*, March 16, 2003, available in LexisNexis. In response to the IAEA’s reporting (see below), Cheney declared flatly, “I think Mr. El Baradei frankly is wrong.”

<sup>46</sup> USA Today/CNN/Gallup Poll, “News,” Feb. 2003, available at <http://www.usatoday.com/news/polls/tables/live/0203.htm>. A Fox News Poll conducted by Opinion Dynamics Corporation on September 8 – 9, 2002, found that 69 % of respondents believed “Iraq currently has nuclear weapons.” The only choices were yes, no, or no opinion. See Dana Blanton, “Poll: Most Expect War With Iraq,” Fox News, Sept. 12, 2002, available at <http://www.foxnews.com/story/0,2933,62861,00.html>.

<sup>47</sup> U.S. Department of State, Office of the Spokesman, Colin Powell, “Press Remarks with Foreign Minister of Egypt Amre Moussa,” Feb.24, 2001, available at <http://www.state.gov/secretary/rm/2001/933.htm>.

clear and classical statement of deterrence—if they do acquire WMD, their weapons will be unusable because any attempt to use them will bring national obliteration.”<sup>48</sup> These were bold statements not only about Iraqi incapability, but also about the unimportance of Iraqi threats even if the regime had developed nuclear capabilities.

How could these Bush administration advisors and officials have made such definitively dismissive statements about Iraqi weapons in their pre 9/11 statements? They apparently relied upon the latest information produced by the intelligence community, which did not believe Iraq was a serious threat. Even as late as December 2001, the pertinent NIE declared that “Iraq did not appear to have reconstituted its nuclear weapons program.”<sup>49</sup> According to the Senate Intelligence Committee, this same finding appeared in various yearly reports from 1997 until drafts of the 2002 NIE were circulated around the intelligence community in late September of that year. It seems quite clear, in retrospect, that intelligence sources depended greatly upon the international weapons inspectors who were in Iraq through the end of 1998, when they were asked to withdraw by the Clinton administration so the United States could commence bombing.<sup>50</sup> Working with the United Nations Special Commission (UNSCOM), which was established in 1991 after the Persian Gulf War, the International Atomic Energy Agency (IAEA)

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<sup>48</sup> Condoleezza Rice, “Promoting the National Interest,” 79 *Foreign Affairs*, January/February 2000, p. 61.

<sup>49</sup> NIE, *Foreign Missile Developments and the Ballistic Missile Threat Through 2015*. Quoted by Senate Intelligence Report, 2004, p. 85, available at [http://www.cia.gov/nic/PDF\\_GIF\\_otherprod/missilethreat2001.pdf](http://www.cia.gov/nic/PDF_GIF_otherprod/missilethreat2001.pdf).

<sup>50</sup> See the Senate Intelligence Report, 2004, p. 19. The President has made several misleading comments about the status of international inspectors in Iraq. In his 2002 State of the Union address, he said: “This is a regime that agreed to international inspections—then kicked out the inspectors.” In 1998, of course, they were withdrawn. After the American occupation began, the President iterated claims that arms inspectors had not been allowed into Iraq in 2002 – 2003 after the UN sought them: “we gave him a chance to allow the inspectors in, and he wouldn’t let them in. And, therefore, after a reasonable request, we decided to remove him from power.” White House Office of the Press Secretary, “Remarks Following Discussions with Secretary General Kofi Annan of the United Nations and an Exchange with Reporters,” July 14, 2003, 39 *Weekly Compilation of Presidential Documents*, 2003, p. 917.

had essentially completed its nuclear disarmament mission in Iraq by December 1998. The pre-1998 inspections successes were described during the UN Security Council's debate on Resolution 1441:

By the time the inspectors were withdrawn, the IAEA had been able to draw a comprehensive and coherent picture of Iraq's past nuclear weapons programme, and to dismantle the programme. The IAEA had destroyed, removed or rendered harmless all of the physical capabilities of Iraq to produce amounts of nuclear-weapons-usable nuclear material of any practical significance.<sup>51</sup>

In short, by the time of its withdrawal on December 16, 1998, IAEA had found that Iraq had “significant hurdles” to clear before it could build a nuclear device. The various conclusions were quite authoritative. In addition to overseeing the destruction of Iraq's gas centrifuge program that had been designed for enriching uranium, the IAEA concluded that “all nuclear material of significance to Iraq's nuclear weapons program was verified and fully accounted for, and all nuclear-weapons-usable nuclear material (plutonium and high enriched uranium) was removed from Iraq.” Furthermore, “There were no indications that there remained in Iraq any physical capability for the production of amounts of nuclear-weapons-usable nuclear material of any practical significance.” Perhaps most startling, at least politically, Iraq's official disclosures about its nuclear program matched the IAEA findings. Iraq's nuclear program had been dismantled, and Baghdad was almost completely in compliance with its international obligations by 1999. Moreover, even after IAEA inspectors withdrew from Iraq in 1998, they were able over the next four years to confirm the continued sealed status of Iraq's known nuclear materials (such as its stores of un-enriched uranium).

The intelligence from weapons inspectors, those most recently acquainted with Iraqi capabilities, thus supported the statements by Rice and Powell in 2000 and 2001, which

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<sup>51</sup> IAEA Update Report for the Security Council Pursuant to Resolution 1441 (2002), Jan. 20, 2003, available at [http://www.iaea.org/NewsCenter/Focus/IaeaIraq/unscreport\\_290103.html](http://www.iaea.org/NewsCenter/Focus/IaeaIraq/unscreport_290103.html). All of the IAEA quotes in the paragraph are taken from this document.

dismissed the threats from Iraqi nuclear, chemical and biological weapons. How then did members of the Bush administration come to make the very frightening claims documented above about Iraq's nuclear program? Did any new information about Iraq's arms support new interpretations of the threat? The U.S. intelligence community's assessments did not dispute the IAEA's successes in Iraq or state that the country was making progress on its nuclear program until the 2002 NIE.<sup>52</sup> That assessment, however, published October 1, completely reversed course and found that "Baghdad began reconstituting its nuclear program shortly after the departure of UNSCOM inspectors in December 1998." Since the NIE reports over the previous five years had suggested that Iraq might be able to build a nuclear bomb within five to seven years once its program was reconstituted, the 2002 NIE gave a potentially earth-shattering declaration. Moreover, the NIE had, with "high confidence" concluded that Iraq was "continuing, and in some areas expanding" its various arms programs and that the intelligence community was not fully able to detect "portions of these weapons programs."<sup>53</sup>

Iraq's disarmament was not clearly apparent to U.S. officials until well after the war's early goals had been achieved and Baghdad had been occupied by the United States and its coalition partners. American weapons inspectors returned to Iraq in March and April 2003, in the form of the 75th Exploitation Task Force and as covert Task Force 20. These groups were succeeded and supplemented, respectively, by the larger and more comprehensive Iraq Survey Group in June 2003. Only after months of inspections did it become evident to these agencies and inspectors that Saddam Hussein had not, in fact, made meaningful progress towards a nuclear program – nor really to any significant unconventional weapons program. David Kay testified about the nuclear dimension for the Iraq Survey Group in October 2003: "we have not

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<sup>52</sup> Senate Intelligence Report, 2004, 84.

<sup>53</sup> Both quotes from the NIE are in the Senate Intelligence Report, 2004, pp. 85, 126.

uncovered evidence that Iraq undertook significant post-1998 steps to actually build nuclear weapons or produce fissile material.”<sup>54</sup> Kay added in January 2004 that Iraq’s “program-related” activity in this area merely involved the construction of new buildings that could eventually host a nuclear program. “It was not a reconstituted, full-blown nuclear program.”<sup>55</sup> Charles Duelfer’s fall 2004 report goes much further, finding that Iraq’s ability even to reconstitute a nuclear weapons program “progressively decayed” after 1991, when Saddam Hussein ended Iraq’s program.<sup>56</sup>

This timeline, of course, is missing some critical information that undermines the credibility of the Bush administration’s pre-war statements. Most importantly, many of the most politically charged and definitive statements occurred before the intelligence community produced a new report. Thus, the administration’s public assessments of the Iraq nuclear program were substantially different from the secret December 2001 NIE – and may have served to shape the later NIE. Democratic Senators John D. Rockefeller, Carl Levin and Richard Durbin noted the importance of the timing in their addendum to the 2004 Senate Intelligence Committee Report: “In the months before the production of the Intelligence Community’s October 2002 Estimate, Administration officials undertook a relentless public campaign which repeatedly characterized the Iraq weapons of mass destruction program in more ominous and threatening terms than the Intelligence Community analysis substantiated.” The Senators added, “These high-profile statements...were made in advance of any meaningful intelligence analysis and

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<sup>54</sup> Statement by David Kay, “Interim Progress Report on the Activities of the Iraq Survey Group (ISG),” House Permanent Select Committee on Intelligence, House Appropriations Subcommittee on Defense, and Senate Select Committee on Intelligence, Oct. 2, 2003, available at [http://www.cia.gov/cia/public\\_affairs/speeches/2003/david\\_kay\\_10022003.html](http://www.cia.gov/cia/public_affairs/speeches/2003/david_kay_10022003.html).

<sup>55</sup> David Kay, *Iraqi Weapons of Mass Destruction Programs*, Senate Armed Services Committee, Jan., 28, 2004, p. 14, Federal News Service Transcript, available at <http://www.ceip.org/files/projects/npp/pdf/Iraq/kaytestimony.pdf>.

<sup>56</sup> *Comprehensive Report of the Special Advisor to the DCI on Iraq’s WMD*, vol. 2, 2004, p.1.



created pressure on the Intelligence Community to conform to the certainty contained in the pronouncements.”<sup>57</sup>

Moreover, even in October 2002, the intelligence community did not think that Iraq had a nuclear weapon, nor was it likely to acquire one any time soon. Thus, to the intelligence community, the threat was not imminent. The National Intelligence Officer for Strategic and Nuclear Programs told the Senate Intelligence Committee that Iraq had not fully reconstituted its nuclear program immediately after the inspections ended in 1998 and that the “five to seven year clock” on Iraq’s nuclear capability did not start running until 2002. As a result, the same NIE noted with “moderate confidence” that “Iraq does not have a nuclear weapon or sufficient material to make one but is likely to have a weapon by 2007 to 2009.”<sup>58</sup> The 2002 NIE also included “alternative views” of some of the agencies that helped put together the intelligence assessment. The State Department’s INR was “unable to predict when Iraq could acquire a nuclear device or weapon,” but argued that it was not persuaded by the key pieces of evidence thought to be critical to the changed assessment.<sup>59</sup> This internal dissent deserves a closer look, and will be discussed below in more detail. Senators Rockefeller, Levin, and Durbin allege that “the qualifications the Intelligence Community placed on what it assessed about Iraq’s links to terrorism and alleged weapons of mass destruction were spurned by top Bush Administration officials.”<sup>60</sup> Administration officials used concrete sounding references to dangers posed by the

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<sup>57</sup> Rockefeller, Levin, and Durbin, “Additional Views,” in Senate Intelligence Report, 2004, pp. 452, 454. See also David Barstow, William J. Broad, and Jeff Gerth, “How the White House Embraced Disputed Iraqi Arms Intelligence,” *The New York Times*, October 3, 2004, p. 1.

<sup>58</sup> Quoted in Senate Intelligence Report, 2004, pp. 85 – 6, 126.

<sup>59</sup> NIE Key Judgments, *Iraq’s Continuing Program for Weapons of Mass Destruction*, Oct.2002, available at [http://www.cia.gov/cia/reports/iraq\\_wmd/Iraq\\_Oct\\_2002.htm#toc](http://www.cia.gov/cia/reports/iraq_wmd/Iraq_Oct_2002.htm#toc).

<sup>60</sup> Rockefeller, Levin and Durbin, in Senate Intelligence Report, 2004, p. 459.

Iraqi regime, and failed to fairly present to the public just how divided the intelligence community's assessments were.

Also missing from the narrative is the return of IAEA inspectors to Iraq in late 2002 and through March 2003. These international nuclear weapons inspectors operated freely in pre-war Iraq and visited over 140 Iraqi sites looking for signs of nuclear activity. IAEA inspectors also conducted interviews with Iraqi scientists and other personnel of interest and reviewed a significant amount of written documentation related to Iraq's nuclear program that was provided by the regime. Thus, it is very significant that even before the war began, the IAEA had made a preliminary conclusion that Iraq had no nuclear program before the UN Security Council. In January 2003, IAEA director Mohamed El Baradei told the United Nations Security Council more definitively, "We have to date found no evidence that Iraq has revived its nuclear weapon program since the elimination of the program in the 1990s."<sup>61</sup> By March 7, 2003, El Baradei was able to further cement this finding: "After three months of intrusive inspections, we have to date found no evidence or plausible indication of the revival of a nuclear weapon program in Iraq."<sup>62</sup> While Vice President Cheney sometimes publicly disparaged the work of the IAEA, the administration offered no detailed public critique of these pre-war inspections and continued to rely upon the work of the IAEA to administer and assure nonproliferation goals in North Korea and Iran.<sup>63</sup> As noted above, U.S. intelligence agencies were quite dependent upon on-site

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<sup>61</sup> Mohamed ElBaradei, "The Status of Nuclear Inspections in Iraq," Jan. 27, 2003, available at <http://www.iaea.org/NewsCenter/Statements/2003/ebsp2003n003.shtml>.

<sup>62</sup> El Baradei, "The Status of Nuclear Inspections In Iraq: An Update," March 7, 2003, available at <http://www.iaea.org/NewsCenter/Statements/2003/ebsp2003n006.shtml>.

<sup>63</sup> NBC News Transcripts, *Meet the Press*, March 16, 2003. In response to the IAEA findings the prior week, Cheney declared, "I think Mr. El Baradei, frankly, is wrong. And I think if you look at the track record of the International Atomic Energy Agency and this kind of issue, especially where Iraq's concerned, they have consistently underestimated or missed what it was Saddam Hussein was doing. I don't have any reason to believe they're any more valid this time than they've been in the past."

inspections from Iraq throughout the 1990s. Moreover, these inspections should have been highly credible. As Kenneth Pollack succinctly noted, “nuclear-weapons production is extremely difficult to conceal.”<sup>64</sup> There is therefore little to explain, the U.S. administration’s certitude given only lukewarm and less than imminent warnings from their own intelligence community and a lack of agreement from international inspectors.

### ***Distorting the Details***

The administration overstated the intelligence about a number of specific elements of the Iraqi nuclear program. For example, in his September speech before the UN, President Bush referenced Iraq’s apparent pursuit of aluminum tubes in the global marketplace, which Bush claimed would be “used to enrich uranium for a nuclear weapon.”<sup>65</sup> In the following sentence, the President implied that this was a particularly urgent problem: “Should Iraq acquire fissile material, it would be able to build a nuclear weapon within a year.” That same month, National Security Advisor Rice declared that these tubes were “only really suited for nuclear weapons programs, centrifuge programs.”<sup>66</sup> In an apparent reference to these tubes, Vice President Cheney, just days before the first anniversary of the September 11 attacks, declared on NBC’s “Meet the Press, “We do know, with absolute certainty, that he [Saddam Hussein] is using his procurement system to acquire the equipment he needs in order to enrich uranium to build a nuclear weapon.”<sup>67</sup> While Iraq apparently sought thousands of aluminum tubes that might

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<sup>64</sup> Pollack, “Spies, Lies, and Weapons,” 85.

<sup>65</sup> White House, “Address to the United Nations General Assembly.”

<sup>66</sup> Joby Warrick, “Evidence on Iraq Challenged,” *The Washington Post*, September 19, 2002, p. A18. Rice later revealed that she knew of the debate about the tube’s more benign uses. See Barstow, Broad and Gerth, Oct. 3, 2004.

<sup>67</sup> NBC News Transcripts, “Vice President Dick Cheney discusses 9/11 anniversary, Iraq, nation’s economy and politics 2002,” *Meet the Press*, September 8, 2002, available at LexisNexis.

withstand great heat and stress, the American intelligence community was not uniformly convinced that these tubes were sought to contribute to a nuclear weapons program. Their 81mm diameter and one meter length arguably made them a poor fit for enriching uranium, but they did seem appropriate for a 1950s-era centrifuge design. Eventually, Department of Energy analysts discovered that the tubes were a perfect fit for Iraq's well-known 81mm conventional rocket program and that Iraq had literally tens of thousands of these same tubes in its arsenal during the previous decade. In January 2003, former IAEA weapons inspector David Albright, who in the words of *The Washington Post*, "has investigated Iraq's past nuclear programs extensively," told the *Post* that the information about the tubes appeared to serve only the administration's political goals: "In this case, I fear that the information was put out there for a short-term political goal: to convince people that Saddam Hussein is close to acquiring nuclear weapons."<sup>68</sup>

Both the U.S. Department of Energy's Office of Intelligence and the U.S. State Department's Bureau of Intelligence and Research concluded before the war that the tubes were "probably not intended for a nuclear program."<sup>69</sup> The IAEA physically inspected the aluminum tubes and concluded in March 2003 that "Extensive field investigation and document analysis have failed to uncover any evidence that Iraq intended to use these 81mm tubes for any project other than the reverse engineering of rockets."<sup>70</sup> Moreover, the IAEA found, even if Iraq had tried to make these poorly sized tubes work in some kind of uranium enrichment process, "it was highly unlikely that Iraq could have achieved the considerable re-design needed to use them in a revived centrifuge program." U.S. intelligence services, did not learn until February 2003 that

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<sup>68</sup> Quoted by Joby Warrick, "U.S. Claim on Iraqi Nuclear Program Is Called Into Question," *The Washington Post*, Jan. 24, 2003, p. A1.

<sup>69</sup> Senate Intelligence Report, 2004, 86. The "extensive dissenting opinions from both the DOE and INR" (p. 96) were contained in an annex to the 2002 NIE. See also Barstow, Broad and Gerth, Oct. 3, 2004.

<sup>70</sup> El Baradei, "The Status of Nuclear Inspections."

the aluminum tubes were, as Iraq had declared, exactly like the tubes it had used earlier for its rocket program.<sup>71</sup> Finally, in January 2004, David Kay testified that it was “more than probable” that the aluminum tubes were intended for a conventional missile program rather than a centrifuge.<sup>72</sup>

Secretary of State Colin Powell presented similarly weak intelligence about Iraq’s nuclear program in his widely acclaimed presentation to the United Nations Security Council. The speech was designed to present the administration’s best evidence about Iraqi threats and was thoroughly vetted by the CIA and the State Department’s INR, which was perhaps the internal agency most skeptical about Iraq’s weapons capabilities. Indeed, INR sought the removal of dozens of “incorrect or dubious claims” from the speech draft and later reported that 28 were either deleted or changed to eliminate its concerns.<sup>73</sup> This publicized attentiveness to fact-checking almost certainly added to the perceived credibility of the February 2003 presentation. Powell’s dramatic appearance was widely viewed as convincing and compelling, even by domestic political opponents of the administration.<sup>74</sup> A survey by *Editor & Publisher* magazine found that, literally the day after Powell’s speech, “daily newspapers in their editorials

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<sup>71</sup> Senate Intelligence Report, 2004, 99. Though U.S. intelligence services were provided complete information about IAEA inspections and tests, the CIA apparently prepared a brief circulated only to senior policy officials that “rejected the IAEA’s conclusions” (119). The CIA thought that IAEA inspectors were “being fooled by Iraq” (120).

<sup>72</sup> Kay, *Iraqi Weapons of Mass Destruction Programs*, 13.

<sup>73</sup> Senate Intelligence Report, 2004, 241 - 42. Despite this attempted diligence, the Senate Committee nonetheless concluded that because the speech relied upon the unsubstantiated NIE claims, “many of those [intelligence community] judgments that were included in Secretary Powell’s speech, therefore, are also not substantiated by the intelligence source reporting.” INR analysts were apparently granted less direct access to Secretary Powell during the briefing process. Ultimately, many of their suggested caveats were ignored.

<sup>74</sup> The eventual Democratic nominee for President in 2004, Senator John Kerry, called the presentation “convincing” and based on evidence that “appears real and compelling.” See Derrick Z. Jackson, “Kerry still needs to explain war vote,” *Boston Globe*, Jan. 23, 2004, available at [http://www.boston.com/news/politics/debates/articles/2004/01/23/kerry\\_still\\_needs\\_to\\_explain\\_war\\_vote/](http://www.boston.com/news/politics/debates/articles/2004/01/23/kerry_still_needs_to_explain_war_vote/).

dramatically shifted their views to support the Bush administration's hard-line stance on Iraq.”<sup>75</sup>

Despite these contemporaneous public relations successes, however, a substantial portion of the Secretary’s claims have not held up to critical scrutiny. Consider first the acquisition of magnets thought to be useful for Iraq’s centrifuge program for enriching uranium. According to the Senate Intelligence Committee, this was the only new evidence the Secretary presented relating to Iraq’s nuclear program:

“We also have intelligence from multiple sources that Iraq is attempting to acquire magnets and high-speed balancing machines. Both items can be used in a gas centrifuge program to enrich uranium. In 1999 and 2000, Iraqi officials negotiated with firms in Romania, India, Russia and Slovenia for the purchase of a magnet production plant. Iraq wanted the plant to produce magnets weighing 20 to 30 grams. That's the same weight as the magnets used in Iraq's gas centrifuge program before the Gulf War. This incident, linked with the tubes, is another indicator of Iraq's attempt to reconstitute its nuclear weapons program.”<sup>76</sup>

Based on the Department of Energy’s pre-war analysis, however, the magnets were significantly smaller than those Iraq would have needed to use if Iraq were to use these magnets with the 81mm aluminum tubes that Iraq was said to have acquired for purposes of constructing a centrifuge. Further, these magnets were no more than half the weight of magnets Iraq had previously used in its centrifuge damper designs.<sup>77</sup> Similar sorts of technical and production constraints were reported by the IAEA’s El Baradei in his 2003 public presentations prior to the start of the war. Based on physical examination, the IAEA was able to observe strict limits on the utility of the magnets that Iraq was supposedly attempting to import and/or manufacture. Six months after Powell’s UN presentation, an Associated Press analysis of the major evidence

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<sup>75</sup> Ari Berman, “U.S. Iraq Policy Gains Support Among Newspapers,” *Editor & Publisher*, Feb. 7, 2003, available at [http://www.editorandpublisher.com/eandp/news/article\\_display.jsp?vnu\\_content\\_id=1812676](http://www.editorandpublisher.com/eandp/news/article_display.jsp?vnu_content_id=1812676).

<sup>76</sup> U.S. Department of State, Office of the Spokesman, Colin Powell, “Remarks to the United Nations Security Council, Feb. 5, 2003, available at <http://www.state.gov/secretary/rm/2003/17300.htm>.

<sup>77</sup> Senate Intelligence Report, 2004, at 243.

found that the Secretary's entire briefing file "looks thin" in retrospect.<sup>78</sup> Powell himself acknowledged in April 2004 that the information behind at least some of his own presentation's claims was flawed.<sup>79</sup>

Perhaps the best known distortion of the intelligence related to the alleged Iraqi importation of tons of uranium from Niger. Someone, as yet unnamed, forged documents purporting to support this claim. In the January 2003 State of the Union address, President Bush uttered these words, "The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa."<sup>80</sup> The truth about this dubious assertion became a major political issue in the United States mid-year 2003. The *Washington Post* reported on June 12, 2003, that the CIA had dispatched a retired ambassador, who was not named in the article, to Africa in early 2002 in order to investigate the claim that Iraq had attempted to purchase uranium in yellow cake form. Upon return, the official reportedly dismissed the alleged transaction.<sup>81</sup> In July, not long after Ambassador Joseph Wilson went public with his findings, CIA Director George Tenet took personal responsibility for the faulty intelligence and acknowledged that the inclusion of this allegation in the 2003 State of the Union "was a mistake."<sup>82</sup> News reports revealed that the CIA previously convinced the White House to remove a similar statement from the President's October 2002 speech in Cincinnati. As a result

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<sup>78</sup> Charles Hanley, Associated Press, Aug. 11, 2003, available <http://www.commondreams.org/headlines03/0811-09.htm>. The review surveyed a full array of flawed unconventional weapons evidence, including the most important nuclear claims.

<sup>79</sup> "Now it appears not to be the case that it was that solid." Quoted by CNN, "Powell: Some Iraq testimony not 'solid,'" April 3, 2004, available at <http://www.cnn.com/2004/US/04/03/powell.iraq/>.

<sup>80</sup> White House Office of the Press Secretary, "Address Before a Joint Session of the Congress on the State of the Union," Jan. 28, 2003, *Weekly Compilation of Presidential Documents*, 2003, p. 115.

<sup>81</sup> Walter Pincus, "CIA Did Not Share Doubt on Iraq Data," *Washington Post*, June 12, 2003, p. A1.

<sup>82</sup> Walter Pincus and Dana Milbank, "Bush, Rice Blame CIA for Iraq Error," *Washington Post*, July 12, 2003, p. A1.

of these developments, administration officials publicly acknowledged its mistakes and retracted the President's claim. "Knowing all that we know now, the reference to Iraq's attempt to acquire uranium from Africa should not have been included in the State of the Union speech."<sup>83</sup>

Once again, however, those closely following the public debate before the war already knew the claims were dubious. The IAEA reported in early March 2003—before the war began—that documents it received from the United States only one month earlier related to this alleged yellow cake transaction were forgeries: "Based on thorough analysis, the IAEA has concluded, with the concurrence of outside experts, that these documents, which formed the basis for the reports of recent uranium transactions between Iraq and Niger, are in fact not authentic. We have therefore concluded that these specific allegations are unfounded."<sup>84</sup> Had the U.S. intelligence community been offered the chance to incorporate evidence based on the IAEA's latest on-site inspections, it too might have concluded before the war that Iraq had not, in fact, reconstituted its nuclear weaponry. Likewise, if the public debate had centered upon the extant significant doubts about the nature of the threat, domestic support for the war might have collapsed and the administration might have aborted or delayed the attack.

## Conclusion

The Bush administration's case for war against Iraq was significantly distorted by the public manipulation of dubious intelligence to greatly inflating the threat from Iraq's weapons programs. A large number of general and specific claims turned out not to be well-supported by the available intelligence. While it also appears that the intelligence itself was flawed, as the Senate Select Committee on Intelligence concluded in 2004, White House officials blatantly

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<sup>83</sup> Walter Pincus, "White House Backs Off Claim on Iraqi Buy," *Washington Post*, July 8, 2003, p. A1.

<sup>84</sup> El Baradei, "The Status of Nuclear Weapons."



oversold the status of the overall Iraqi nuclear program with the evidence the Bush Administration did have. The Administration's hyperbole failed to include important caveats that had been in the intelligence reports to give the false impression that Iraq was very close to making nuclear weapons.

Moreover, the administration apparently failed to live up to its own standards for employing the preventative military strategy. From fall 2002, officials claimed that the United States would employ the new preemptive strike doctrine only as a last resort, after working with allies to establish the existence of a grave threat amenable only to military action. The President himself called for public and global debate about the nature of the threat and the need for a response. Yet, by distorting the evidence that framed the debate, the administration undercut the role of public deliberation. The certainty in their public statements outpaced qualified intelligence reports and served to drown out informed critics and skeptics such as former weapons inspector Scott Ritter, Cambridge academic Glen Rangwala, and even the IAEA, whose assessments all turned out to be far more accurate than the administration's about Iraq's unconventional weapons threats.

The next time a U.S. administration contemplates preventative attack, it will almost surely find itself engaged in a more spirited debate. Fooled once, the mass media, the Congress, and the general public will have strong incentives to seek out information that at least challenges the claims presented by the executive branch. Moreover, even if few skeptics doubt the veracity of the publicly available intelligence, critics will point out some of the difficulties in building international support for using force, financing and manning war fighting and nation-building missions, and dealing with the potentially violent aftermath of even successful attacks against particular worrisome threats. An open and inclusive debate about the prospect of using

preventative military force will create the widest possible public consensus for the most appropriate policy course.

Essentially, the public sphere failed to stop the U.S. attack of Iraq because most domestic audiences did not have access to the known intelligence. The administration behaved in a manner that was strategically deceptive. Most of the evidence about Iraq's nuclear program was classified and the administration monopolized control of those secrets. To understand how this might have worked differently, consider one of the few occasions when the administration's monopoly on information was successfully contested. In September 2002, standing next to British Prime Minister Tony Blair, President Bush erroneously claimed that the IAEA had previously produced a report that Iraq was "six months away from developing a [nuclear] weapon. I don't know what more evidence we need."<sup>85</sup> However, no such report existed and an agency spokesperson quickly denied this specific claim. *The Washington Times* interviewed Mark Gwozdecky of the IAEA and reported on September 27, 2002, "There's never been a report like that issued from this agency. We've never put a time frame on how long it might take Iraq to construct a nuclear weapon in 1998."<sup>86</sup> The administration did not repeat this claim again, though it did sometimes make references more generically to IAEA findings from the early 1990s.

This paper has focused on the Bush administration's use of evidence about Iraqi nuclear weapons, but it could just as easily have applied to its public claims about Iraq's chemical or biological weapons, missile program, or ties to al Qaeda. The Senate Intelligence Committee found similar shortcomings in most of the key evidence girding under the administration's

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<sup>85</sup> White House Office of the Press Secretary, "President Bush, Prime Minister Blair Discuss Keeping the Peace," Camp David, MD, Sept. 7, 2002, 38 *Weekly Compilation of Presidential Documents*, 2002, 1518.

<sup>86</sup> Joseph Curl, "Agency disavows report on Iraq arms," *The Washington Times*, Sept. 27, 2002, p. A16, available on LexisNexis.

various assertions. Furthermore, many of the independent organizations that have produced reports criticizing the content of U.S. intelligence assessments have additionally provided quite negative evaluations of the administration's pre-war employment of that intelligence. Their findings suggest, as one prominent report found, that the administration "systematically misrepresented the threat from Iraq's WMD and ballistic missile program."<sup>87</sup> Democratic Senators Rockefeller, Levin, and Durbin, who served on the Senate Select Committee on Intelligence, wrote an "additional view" to the lengthy document that publicly accuses the administration of distorting the intelligence:

By selectively releasing and mischaracterizing intelligence information that supported an Iraq-al-Qaeda collaboration while continuing to keep information classified and out of the public realm that did not, the Administration distorted intelligence to persuade Americans into believing the actions of al-Qaeda and Iraq were indistinguishable, "part of the same threat," as Deputy Secretary Wolfowitz asserted.<sup>88</sup>

Former State Department INR official Greg Thielmann, who served Colin Powell until September 2002, likewise charges that "the administration was grossly distorting the intelligence."<sup>89</sup> Thielmann has reflected at greater length on various intelligence questions in a working paper available from the Matthew B. Ridgway Center for International Security Studies' Working group on Preventative and Preemptive Military Intervention, for which this paper is also a product.

Some members of the administration apparently attempted to bypass bureaucratic checks within the government so as to emphasize the intelligence that favored its anti-Iraq position. In practice, this apparently meant that officials "cherry-picked" pieces of the most worrisome available intelligence and then "stovepiped" that information to top-level government leaders, in

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<sup>87</sup> Cirincione, Mathews, and Perkovich, *WMD In Iraq*.

<sup>88</sup> Rockefeller, Levin, and Durbin, "Additional Views" in Senate Report, 2004, at 463.

<sup>89</sup> Quoted in Robert Dreyfuss and Jason Vest, "The Lie Factory," *Mother Jones*, January/February 2004, p. 40.

order to bypass skeptical intelligence analysts. This allegedly occurred even if the evidence was of questionable accuracy or obtained from dubious and self-interested sources provided by representatives of the exiled Iraqi National Congress.<sup>90</sup> According to former National Security Council member Kenneth Pollack, “The Bush officials who created the OSP [Pentagon’s Office of Special Plans] gave its reports directly to those in the highest levels of government, often passing raw, unverified intelligence straight to the Cabinet level as gospel. Senior Administration officials made public statements based on these reports—reports that the larger intelligence community knew to be erroneous.”<sup>91</sup>

American intervention in Iraq based on faulty and distorted intelligence has almost certainly created new international security dangers. Most importantly, the credibility of U.S. intelligence-gathering and analysis might be seriously undermined. This is critically important to the future of the preventative war doctrine. As David Kay points out, “If you cannot rely on good, accurate intelligence that is credible to the American people and to others abroad, you certainly cannot have a policy of pre-emption....Pristine intelligence—good, accurate intelligence—is a fundamental benchmark of any sort of policy of preemption to even be thought about.”<sup>92</sup> Bush administration officials, of course, continue to argue that a firm and clear public declaration of preemption may be genuinely important to an effective anti-terror strategy. They promote the strategy as a means to deter undesirable behavior by foes—and perhaps even to compel more desirable behavior from would-be adversaries. Their argument for prevention goes

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<sup>90</sup> The Pentagon has concluded that very little security intelligence provided by the INC was accurate. Douglas Jehl, “Agency Belittles Information Given By Iraq Defectors,” *The New York Times*, Sept. 29, 2003, p. A1.

<sup>91</sup> Pollack, “Spies, Lies, and Weapons” p. 88. See also, Dreyfuss and Vest, “The Lie Factory” 34 – 41. This article includes on-the-record criticisms from Air Force Lt. Col. Karen Kwiatkowski who served in the Pentagon’s Near East and South Asia unit the year before the invasion of Iraq.

<sup>92</sup> “Transcript: David Kay on ‘Fox News Sunday,’” Fox News, Feb. 1, 2004, available at <http://www.foxnews.com/story/0,2933,109957,00.html>.

well beyond deterrence, however. Confronted by genuine threats, it might be necessary for the United States to strike at threats before they are fully apparent. Since September 11, 2001, in fact, U.S. leaders have often expressed concern that deterrence will fail to mitigate threats from terrorists and the outlaw states that provide them safe harbor and support.

Officials now argue that the mere prospect of preventative action has already served as an effective warning to some potentially hostile states. As Secretary Powell has written, an important “reason for including the notion of preemption in the NSS was to convey to our adversaries that they were in big trouble.”<sup>93</sup> In his 2004 State of the Union Address, President Bush, specifically credited the attack on Iraq for the success in convincing Libya to abandon its unconventional weapons programs: “Nine months of intense negotiations involving the United States and Great Britain succeeded with Libya, while 12 years of diplomacy with Iraq did not. And one reason is clear: For diplomacy to be effective, words must be credible, and no one can now doubt the word of America.”<sup>94</sup> Except, of course, other states do doubt America’s words, or at least the words about threats related to proliferation and terrorism. As Nikolas Gvosdev noted in 2003, diplomats around the world now quite publicly doubt the veracity of U.S. claims in regard to North Korea.<sup>95</sup> Though Secretary Powell charges that critics distort the significance of the administration’s preemption policy, it is even clearer that Bush officials have sent very mixed

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<sup>93</sup> Powell, “A Strategy of Partnerships,” 24. Powell argues that preemption “applies only to the undeterrable threats that come from nonstate actors such as terrorist groups.” This seems inconsistent because President Bush has long argued that states that sponsor or harbor terrorists are as guilty as the terrorists themselves and many administration officials have openly worried that such states, in possession of unconventional weapons, might not be deterred from sharing such weapons with non-state actors. The NSS discusses this problem on p. 15.

<sup>94</sup> White House, “State of the Union Address, 2004.”

<sup>95</sup> Nikolas Gvosdev, “Restoring American Credibility,” *In the National Interest*, June 25, 2003, available at <http://www.inthenationalinterest.com/Articles/Vol2Issue25/Vol2Issue25Gvosdevpfv.html>. For a skeptical discussion of North Korea’s nuclear program, see Selig S. Harrison, “Did North Korea Cheat?” *Foreign Affairs*, forthcoming January/February 2005.

messages. Too often, the administration's own words and deeds since the beginning of 2002 have served to limit U.S. options by undermining American credibility. Because of the all-too-apparent distortions in the Iraq debate, it may well be impossible to convince even close American allies to address threats the U.S. identifies.

Given the complete demonization of Saddam Hussein's regime, and the 12 years of sanctions against Iraq, it is difficult to imagine the United States now making a convincing case for attacking any other state absent an imminent threat. Hussein was unfavorably compared to Adolph Hitler and Joseph Stalin, he attacked multiple neighbors, gassed his own people, allegedly attempted to assassinate a former American president, and at one time had very advanced unconventional weapons programs, including a very worrisome nuclear program. If the United States could not rally the world behind a preventative attack against Iraq, and could not after-the-fact produce evidence of the grave dangers it had supposedly known about, the United States will not likely be able to convince many other states to help attack some other potential adversary, such as Iran, North Korea, or Syria.

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