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## Five Wars of Globalization: Comment on the Grotius Lecture by Moisés Naím

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**FIVE WARS OF GLOBALIZATION:  
COMMENT ON THE GROTIUS LECTURE BY  
MOISÉS NAÍM\***

ELIZABETH RINDSKOPF PARKER\*\*

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**INTRODUCTION**

Let me begin by complimenting Dr. Naím for his thoughtful remarks. I would also like to thank Daniel Bradlow, ASIL President Arthur Rovine, and the American University Washington College of Law for introducing this important discussion on what might be termed “the dark side of globalization.”

I am struck by how appropriate the title of this lecture is—“The Grotius Lecture.” As this audience knows, Hugo Grotius is widely

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\* *Editor's Note:* The following is a revised version of a response to the Grotius Lecture presented at the American Society of International Law's (“ASIL”) 96th Annual Meeting on March 13-16, 2002. The Grotius Lecture Series is co-sponsored by the American University Washington College of Law, the ASIL, and the International Legal Studies Program. The purpose of the Grotius Lecture Series is to open the ASIL forum to distinguished scholars for discussion about new and important voices that might not be heard in international law and to create expanded space and opportunities to explore the intellectual underpinnings of international law and the issues of our time.

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considered the father of modern international law.<sup>1</sup> He is credited with conceiving of a system of law to order the relationships among states so as to achieve the peace and stability necessary for a productive world.<sup>2</sup> Implicit in his efforts was the assumption that states could be relied upon to control their internal territories. What was needed to achieve peace and stability was a set of legal principles that would govern the use of force among them. Now, however, Dr. Naím's talk describes forces unleashed in the post-Cold War world that traditional notions of international law cannot control. Such forces threaten the promise of globalization by their ability to ignore state boundaries and control. Thus, his talk raises an important question: if globalization means that states are no longer able to control the cross-border flow of harmful activities, what will this do to world order under law?

I have thought about the problem of containing the negative forces that Dr. Naím has identified as a part of globalization for some time. For over a decade I was a lawyer in the U.S. intelligence community, where the focus was—and is—relentlessly on such problems. And so, having lived with the dark side of globalization for a number of years in that role, the September 11th attack was not a great surprise.

We all recognize that globalization has altered the critical role that borders and law traditionally had in helping states achieve stability as Hugo Grotius described. Nevertheless, I do not believe that globalization has rendered either states or their borders irrelevant in the post-Cold War world.

Still, the facts have changed dramatically in the post-Cold War period and we have been slow to grasp their significance. In our euphoria at the demise of the Soviet Union, we were naïve about what might follow next. A colleague once quipped that all fairy stories end with “and they lived happily ever after” because what

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1. See Christopher A. Ford, *Preaching Property to Princes: Grotius, Lipsius, and Neo-Stoic International Law*, 28 CASE W. RES. J. INT'L L. 313, 313-14 (1996) (relating that modern scholars maintain that Grotius was a pioneer of various precepts, including human rights, international peace-keeping, the legal equality of all sovereign states, and the supremacy of international law over national law).

2. See Hidemi Suganami, *Grotius and International Equality*, in HUGO GROTIUS AND INTERNATIONAL RELATIONS 222-25 (Hedley Bull et al. eds., 1990) (discussing that Grotius advocated the existence of a body of law that binds all sovereign states and regulates their international relations).

followed was too complicated for a fairy story. Our reactions to the end of the Soviet Union have something of that fairy story response in them.

I remember in 1989 working at the State Department when the Berlin Wall came down. The excitement was palpable. Now, looking backwards, I wonder how we could have failed to see that the Soviet Union, a vast criminal enterprise, would free not only its citizens but the negative forces that previously controlled them when it crumbled? Now, slowly, we are becoming more realistic, so it is a valuable contribution to our evolving understanding of the post-Cold War world to consider the negative forces that have been unleashed by the demise of the Soviet empire. I thank Dr. Naím for leading us in this effort.

## I. GLOBALIZATION: FACTS AND LAW

Let me now offer specific comments on Dr. Naím's fine lecture as we begin this year's Annual Meeting of the American Society of International Law. Much has been said at a general level about globalization and the idea that the world in which we live has become borderless, so that individual state authorities can no longer protect themselves and their citizens when these forces are harmful. In this regard, Dr. Naím has provided us specific facts to consider. As an economist, he has focused on the economic realities of the marketplace; I hope to provide a legal perspective to the problems he has defined.

Dr. Naím invites us to consider five "wars" that he suggests define the darker side of globalization: the wars against narcotics, theft of intellectual property, weapons trafficking, money laundering, and trafficking in people. In response, I would like to suggest: first, that we reconsider use of the term "war" and, second, that we expand the categories of concern slightly. Finally, I will offer my own ideas on possible responses to the situation we confront.

## II. WARS OR THREATS? LANGUAGE MATTERS

Dr. Naím's lecture is helpful in its careful description of the negative facts produced by globalization. Understanding the facts makes possible proposing legal responses. This is the classic

relationship between facts and law, something too little present in current discussions about the post-Cold War world. I worry that some have proceeded under the apparent assumption that the facts have not changed. Too often it seems that we address current policy and security questions in a Cold War framework, one that is now outmoded.

Indeed, if there is any benefit to the terrible attack in September 2001, it is in awakening us to a changed world. Perhaps now we will recognize the need to look at the post-Cold War facts more carefully in the future. We can no longer continue in the bliss of ignorance. We paid a high price for the lesson of September 11th; we must not fail to learn from it.

If law is determined by the facts, how will it respond to Dr. Naím's understanding of the facts? Here I must challenge the use of the term "wars." "War" is an emotionally charged word. It is also a term which produces and justifies specific legal reactions. In fact, I believe Dr. Naím's concerns are better described as "threats" of the new global environment.

This is not a lawyerly quibble alone. Words matter. Used carefully, they can help us understand. Handled carelessly, they can confuse. It is more than just semantics to say that we must be careful with the terminology we use for events we are analyzing and learning about. If we fail to do this from a legal perspective, we will make errors about the significance of, and responses to, specific fact situations. Even more important, we risk moving in wrong directions as we make public policy choices.

In suggesting that we define Dr. Naím's five concerns as "threats," not "wars," I do not want to diminish the impact of the negative forces he describes. The harm to our security and social well-being that they threaten is real and pervasive. I think the word "war" is really designed more to suggest the scope and breadth of these threats and the way they might impact our society, rather than to dictate the responses we might make to them.

Here is my concern. We know certain things about how we handle wars. Indeed, the work of Grotius and others inspired efforts to codify the conduct of war in a series of international conventions. But if we are not careful, by casually using the term "war" we will soon begin to employ the traditional means of war. No one would

justify using armed force normally reserved for nations at war simply by naming our problems “wars” without attention to the factual justification. Yet this is exactly where the casual use of language can lead us.

### III. COMMENTS ON DR. NAÍM’S FIVE THREATS

Dr. Naím identifies and describes five threats resulting from globalization: drugs, arms trafficking, theft of intellectual property, money laundering, and trafficking in people. What are the technical, economic, political, and social aspects of these and what is their significance from a legal perspective?

The first threat, drug trafficking, is a classic example of a social problem that has been mischaracterized. As a result, it has also been ineffectively addressed. The cartoon character, Pogo, summed up his situation nicely: “We have met the enemy and he is us.”<sup>3</sup> Worse, the enemy seems to be winning.

Increasingly many in the United States recognize that drug trafficking is really *our* social problem: an inability to manage and control drug usage in our own country has created an extraordinary engine of international greed which profits from this addiction. The vast profits to be made in the drug trade are not only doing damage within our own domestic borders but have also begun to destabilize governments around the world.

This deterioration has happened slowly, almost imperceptibly. It takes a look back at the history of the drug trade to appreciate the slow erosion of social and political structures that has occurred. Fifteen years ago, few in the United States would have believed that the drug trade could threaten the political stability of a nation the size of Mexico, although I believe the Mexicans were already anxious. I recall Mexican representatives refusing to participate in a public conference on the impact of drugs on the stability of Latin American governments, including Mexico. Today we see that they have no choice but to discuss and deal with this problem. Obviously the profits fueling the drug trade are threatening their national political,

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3. See Serge Schmemmann, *Terror in Oklahoma: The Enemy; New Images of Terror: Extremists in Heartland*, N.Y. TIMES, Apr. 24, 1995, at B8 (referring to Walt Kelly’s famous cartoon possum, Pogo, and his most celebrated quote).

social, and economic well-being. I worry that we in the United States today suffer the same “head in the sand” attitude the Mexicans exhibited years ago. There is far too little honest discussion about the real facts of the drug trade.

Thus, in calling the drug trade—or the drug threat—a war, we confuse ourselves. More worrisome, we may be creating a self-fulfilling prophecy. Efforts to disrupt drug trafficking in Colombia using limited military force have begun to resemble a civil war.<sup>4</sup> With Dr. Naím I believe that the time has come to begin to measure on a cost-benefit basis the effects of our current policy to stop the drug trade.

In doing so, we must consider what is happening to other nations as well as the United States. We need to explore ways in which regulation, education, and other means of control can contain and reduce this problem that originates in the United States. Are there non-military measures that would do a better job than we are now accomplishing through the use of force, measures which would not have the unintended and damaging collateral consequences to other nations that result from the current approach based on force?

By now it should be clear that so-called “supply-side” measures, supported with military force, will not work. Even if they could prevent foreign drug traffickers from entering the United States, the data suggests that drug supply and trade would be replicated domestically in the United States from alternate sources as quickly as we shut it off overseas. Recent news reports about such activities within the United States, notably California, have been disturbing.<sup>5</sup>

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4. See Larry Birns & Tim Ryan, Opinion, *U.S. in Colombia Looks Eerily Like U.S. in Vietnam*, INT'L HERALD TRIB. (France), Sept. 2, 2000, at 6 (reporting that the Clinton administration increased the militarization of the Colombian drug war); see also Martin Hodgson, *Women Commanders: For 17 Years a Guerrilla Group and Commune Lived in Harmony*, GUARDIAN (London), Oct. 10, 2000, at 11 (stating that the U.S. government sent military aid to Colombia to help end drug trafficking).

5. See, e.g., James Gerstenzang, *Bush Sets Goals for Major Cuts in Drug Use*, L.A. TIMES, Feb. 13, 2002, at A1 (noting criticism of Bush's proposed drug policy and reporting that much production of metamphetamines occurs in California).

The former drug czar, General Barry McCaffrey, was right in saying that it was the “demand side” that needs our attention.<sup>6</sup>

This is an unpopular message, but one we must begin to consider. Our objective should be to address the root causes that fuel the drug trade. We should also explore ways to simultaneously decouple the engine of greed that drives the drug trade.

Arms trafficking is Dr. Naím’s second threat. Here again is a problem with two sides. The United States has long had an ambivalent relationship to arms trafficking. Even as we strive to end arms trafficking, we contribute to the problem unintentionally with policy choices made for other reasons. We produce many of the arms that are responsible particularly for much small arms trafficking.<sup>7</sup> We may not intend this result, but inadequate controls lead inevitably to it. In the past, motivated by our over-arching fear of Communism and the Soviet Union, we have also armed many repressive governments around the world. These governments have in turn caused civilian revolutionary movements which seek more weapons in order to destabilize repressive governments. In the resulting arms race, ever more weapons enter into circulation.

Some years ago while in Mexico to attend talks on nuclear disarmament, I was surprised to learn that our hosts’ real interest was small arms trafficking. What could be done to staunch the flow of these weapons into their country, where these weapons out-gun security forces? There have been some salutary developments since then, but better international regulatory controls are still needed to limit the movement of both small and large weapons into hands that would use them to destabilize governments and support some of the threats identified today. Here again, the United States is often seen as

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6. See Birns & Ryan, *supra* note 4, at 6 (explaining that while the Clinton administration spoke of implementing a demand side strategy for fighting the war on drugs, it actually implemented tactics aimed at the supply side); David E. Sanger, *Bush Names a Drug Czar and Addresses Criticism*, N.Y. TIMES, May 11, 2001, at A20 (informing that President Bush has pledged to focus on the demand side of the drug problem).

7. See, e.g., DEP’T OF STATE, WORLD MILITARY EXPENDITURES AND ARMS TRANSFERS: BRIEF HIGHLIGHTS 1999-2000, at 5 (2002) (listing the United States as the top exporter of arms from 1997-1999, and listing North America as accounting for sixty percent of world arms exports from 1997 to 1999), [http://www.state.gov/t/vc/rls/rpt/wmeat/99\\_00/](http://www.state.gov/t/vc/rls/rpt/wmeat/99_00/) (last visited Sept. 29, 2002).



part of the problem. Moreover, because our position often appears so inconsistent, our leadership in seeking to control the flow of arms is weakened.

With regard to threats to intellectual property, the prognosis may be somewhat happier. I agree with Dr. Naím that eventually technology itself will help to cure this problem. It may also change the nature of the threat itself, as the recent Napster case<sup>8</sup> shows. Along with all the other nations of the world, we must think through some of the economic, legal, and market problems created by emerging technology. As nations join the World Trade Organization and their economies begin to produce technological developments, they will learn about the value of protecting their own intellectual property. Once they learn that they can be victims of the theft of intellectual property, their own positions will realign. This trend has already begun in China.<sup>9</sup> More hopeful developments are possible.

Money laundering, the fourth threat, is an unusual case. While recognizing it as an issue, I would not assign it the same importance as Dr. Naím. Root causes, not means like money laundering, should be our principal focus. Of course, we must do all possible to clamp down on the illicit movement of money; the USA Patriot Act<sup>10</sup> will help us here. But those knowledgeable in this area see only modest benefits from attacking the illicit movement of money in our efforts against the al Qaeda network and others. The amounts are small, the networks are diffuse, and new channels are opened easily as soon as others are shut down. That does not mean we ought not to pursue this

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8. See *A&M Records, Inc. v. Napster*, 284 F.3d 1091 (9th Cir. 2002) (affirming a judgment against an Internet company for copyright infringement).

9. See Evelyn Iritani, *Ring Around Beijing: Beijing's \$23 billion plan for 2008 Olympic Games is Gold for U.S. Companies*, L.A. TIMES, Feb. 21, 2002, at A1 (reporting that as part of acceding to the World Trade Organization, China pledged to ameliorate its enforcement of intellectual property rights protection); see also Peter K. Yu, *From Pirates to Partners: Protecting Intellectual Property in China in the Twenty-First Century*, 50 AM. U. L. REV. 131, 151 (2000) (describing changes in Chinese regulations to bring its laws into conformity with the Agreement on Trade-Related Aspects of Intellectual Property Rights).

10. United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act, Pub. L. No. 107-56, 115 Stat. 272 (2001).

problem, but only that we should put this threat in its proper perspective.

The most disturbing of Dr. Naím's threats is his fifth threat: trafficking in people. It is hard to be rational about it. The horrific descriptions of the movement of people into slavery-like conditions are beyond imagination as we enter the twenty-first century. Yet as awful as is the trafficking in people, if we look at it carefully it may help us understand the root causes of all of Dr. Naím's threats. Trafficking in people forces us to ask about root causes. What conditions would force individual responses that enable such trafficking activities? These are the real problems we must address.

This leads me to suggest that Dr. Naím expand his list of threats. I would like to include a sixth threat that might be described as terrorism but that I prefer to think of as "the clash of cultures and civilizations" revealed to us in the September 11th attacks. These attacks show us that in vast parts of the world people live in very different circumstances than we do economically, socially, and in every other imaginable way.

The question has been asked, to the anger of some: Why do we appear such a hateful target to so much of the world's Muslim population, not just extremist groups like al Qaeda? Why did not more of the Muslim community stand up and say what we thought was right: It is unacceptable to harm innocent civilian populations with the brutality of the September 11th attacks, no matter what the cause or grievance?

I am not a scholar of either Islam or the Muslim world, but scholarship is not required to recognize disenfranchised populations. By disenfranchised, I mean not that they are not allowed to vote, but that they are not allowed to eat. The economic discrepancy between the world's haves and the have-nots has reached proportions unacceptable for a truly "free" world, a title and a status that the whole world deserves.

The fact is, extraordinary poverty afflicts vast portions of the world. This poverty, as the world's disenfranchised know now, is created by corruption—whether, as we believe, created by their own governments, or, as they are told, by the policies and actions of the United States and its allies.

It is such discrepancies in economic well-being that force people to resort to extreme steps—agreeing, for example, to be smuggled for sums of money in unthinkable conditions.

#### IV. POSSIBLE RESPONSES

This leads me to a discussion of the responses we might consider to address these threats of the post-Cold War world. In the past, U.S. policy has been based on the assumption that we must choose between control and chaos. In particular, during the Cold War we supported governments that would work with us in fashioning a bulwark against the overarching, all-important threat of communism, no matter their character.

In many respects, this was a bargain with the devil. The end of the Cold War forces us to reexamine this bargain. So, in the immortal words of V. I. Lenin, "What is to be done?"<sup>11</sup> Quite frankly, I believe we confront a situation with little choice. We either address the corruption that, in my judgment, is the root cause of the threats that Dr. Naím has talked about, or we will be condemned to world situations that only grow worse, not better.

Several things are called for in response to the current situation. First, we must recognize that force is not enough. It may be necessary—indeed, we have seen how useful it can be. Without force, or at least the threat of its use, we as a nation give up an important tool for achieving a just international peace. Thus, I would not say we ought never to contemplate the use of force—but, equally, we must recognize that force will not end the problems that Dr. Naím describes. In the modern world, it is at best a delaying tactic until better long-term policy choices can be made, articulated and implemented.

At the same time, because I believe the problems we are considering here are not susceptible to immediate and easy solution, and because I also believe we must be prepared for future terrorist attacks, I believe that we must shore up our own domestic security.

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11. VLADIMIR IL'ICH LENIN, *ESSENTIAL WORKS OF LENIN: "WHAT IS TO BE DONE?" AND OTHER WRITINGS* (Henry M. Christman ed., 1987).

Here Governor Ridge has an exceedingly difficult job.<sup>12</sup> The nature of the problems he confronts are becoming clearer, but their solutions are far from easy, conceptually or financially. Consider for a moment our airports. September 11th showed us just how ill-prepared was the security of this vital part of our transportation system. Close examination of any other part of our federal domestic governmental structures would reveal exactly the same thing.

We collect information from the Immigration and Naturalization Service. It is not usable because it cannot be integrated with other sources of information or, in the case of student visitors, because it is never allowed to leave our campuses. As you know, there has been much discussion of foreign academic visitors post-September 11th.<sup>13</sup> Actually, we know a great deal about most of this group living on our university campuses. Yet we know virtually nothing about the whereabouts of the thousands of visitors in the United States for business and travel purposes.

Consider our water borders, where shipping containers move across both land and sea with only limited inspection.<sup>14</sup> Our borders are only as secure as those of our trading partners. We are not going to stop trading, so we must be sure that if something comes from Canada or Holland or the United Kingdom or any other nation, we can rely on the security provided at the point of departure. I am told that there are seven major ports in the world;<sup>15</sup> consistent policies to screen the flow of goods in and out of these seven ports of origin, as

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12. See Press Release, White House, Gov. Ridge Sworn-In to Lead Homeland Security (Oct. 8, 2001) (announcing that Governor Ridge would lead the new Homeland Security Office), available at <http://www.whitehouse.gov/news/releases/2001/10/20011008-3.html> (last visited Sept. 22, 2002).

13. See, e.g., Ted Gregory, *9/11 Tougher of Some Foreign Students: As Muslim Youths Get Ready to Leave America, They Say Attacks Made Stay More Complicated*, CHI. TRIB., July 10, 2002, at 1 (describing several students' experiences at school in the year following the September 11th terrorists attacks).

14. See Stephen E. Flynn, *America the Vulnerable*, FOREIGN AFF., Jan.-Feb. 2002, at 60, 65 (explaining that the U.S. Customs services is not likely to examine a shipping container when it first arrives in the United States).

15. See *id.* (listing Long Beach, Los Angeles, Hong Kong, Singapore, Hamburg, Antwerp, and Rotterdam as the seven major world ports).

well as our own, would be a major improvement. And, every other domestic system is the same, as we have begun to learn.<sup>16</sup>

The idea that the world is borderless is the wrong metaphor. Rather, we have simply opened our doors and left them unattended, naively assuming that only good things would enter as the Cold War ended and the Iron Curtain lifted. It should have been no surprise that both good and bad would enter, for, after all, the Soviet Union was a kleptocracy, a corrupt government. Now it has simply privatized. All of this corrupt activity is rushing out without effective means to distinguish good from bad, either through technology or legal structures.

Governor Ridge has a larger problem than he may realize: It not only will be necessary to do the legal work needed to carefully restructure the way in which our domestic agencies work together; we must also work with our foreign trading partners—virtually the entire world.

What are my solutions to the problems Dr. Naím describes? First, we must begin to think about long-term foreign policy options that are new and imaginative. As matters now stand, our foreign policy capability, broadly conceived, is badly eroded. Here I refer to more than the inadequate funding our Department of State has long suffered, more than the fact that our foreign aid, where it exists at all, is ill-conceived. Beyond these concerns, I believe that far too little time and money is spent educating our students, the future leaders who must manage this strange new world. Even the Hart-Rudman Report, which thoroughly considered our national security needs in the 21st century, failed to mention any educational inadequacies except those in the hard sciences; it was silent on lack of support for “soft” subjects like political science, area studies, languages, history, or anthropology.<sup>17</sup> Yet without these, how can we understand, much less lead, the world?

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16. *See id.* at 70 (advocating for the adoption of universal security standards for the world’s shipping ports).

17. *See generally* U.S. COMM’N ON NAT’L SEC’Y/21ST CENTURY, ROAD MAP FOR NATIONAL SECURITY: IMPERATIVE FOR CHANGE (2001) (outlining the U.S.’s security needs in the twenty-first century), <http://www.nssg.gov/PhaseIIIFR.pdf> (last visited Sept. 24, 2002).

At the same time, we must also shore up our government. Those who have served in the State Department, as I have been honored to do, and in the Department of Defense recognize the difference in the support these two vitally important departments receive. Perhaps the reason we seem to turn first to military responses to world problems is that only the Defense Department and the military are adequately funded and staffed. But military solutions are not enough. There is a dramatic need to reinvigorate our entire foreign policy framework, from our educational commitment to the support provided critical governmental activities, starting with the State Department.

This leads to a related concern. Academia, properly funded, has much to offer in developing new approaches to post-Cold War problems, but only if it is realistic in the work it undertakes and can work effectively with our national foreign policy apparatus. Yet, for many years there has been a significant divide between academia, intelligence, and the military, apparently as a result of the deep national division we experienced during the Vietnam War. This legacy of mistrust must end if we are to effectively engage our finest minds in the task that confronts us. There must be better interaction on these threat topics, particularly between the intelligence community and academia.

Many were surprised by the September terrorist attacks. Yet the possibility of lethal attacks had been discussed openly for some time.<sup>18</sup> Were the concerns thus voiced not heard? Or were they simply ignored because of the lack of credibility, trust, and interaction between the intelligence community and other parts of our nation's intellectual leadership? My suspicion is that many in academia and elsewhere dismissed the concerns of the intelligence community as paranoid ramblings, as concerns not worthy of serious consideration.

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18. See, e.g., Richard Bernstein, *On Plotters' Path to US, a Stop in a Bin Laden Camp*, L.A. TIMES, Sept. 10, 2002, at A1 (reporting that al Qaeda terrorists mentioned the World Trade Center and boasted of plans to kill thousands); Laurie Garrett, *The Nightmare of Bioterrorism*, FOREIGN AFF., Jan.-Feb. 2001, at 76 (describing U.S. vulnerability to a terrorist attack using biological weapons); RICHARD PRESTON, *THE HOT ZONE* (1994) (emphasizing the potential catastrophic consequences of an attack using biological weapons through a documentation of Ebola outbreaks in Africa and in a laboratory in Reston, Virginia).

Lawyers are not immune from this problem. For years those of us who have hectored colleagues about the possibility of terrorist threats have had little impact. Indeed, prior to September 11th, there was scant legal writing on terrorism and little study of the subject anywhere in our universities. For whatever reason—disinterest in the subject, a lack of belief in the problem, little value in the tenure process—today we find ourselves without the necessary knowledge base to deal effectively with security in the post-Cold War world.

This lack of an adequate knowledge base will make designing effective long-term policies and strategies in the post-Cold War world exceedingly difficult. How can we design an ethical but practical foreign policy if we do not understand the facts, what threatens us?

To begin, we must shed our rose-colored glasses and recognize that there are threats to our well-being. We do not live in a perfect world where none would wish us ill. We must, in short, be more realistic. Consider—and here I will be a minority of one—the effort we have expended on the International Criminal Court (“ICC”). Will it really foster world security? Or will it become an arena for aggressive political posturing? The court may be a good idea but I am not sure that its time has come.

Instead, we would do better to think more about the G-8 countries that control so much of the flow of money. Common criminal law standards in these countries would go far to respond to a number of important concerns. The convention against corruption of the Organization for Economic Cooperation and Development is a case in point.<sup>19</sup>

It is possibly the most significant move yet made in attacking the flow of corrupt dollars from the have nations to the have-nots. If this flow of money could be stopped, much would be accomplished. But this is tedious work, far less lofty and exciting than the visionary excitement provided by the ICC. It is also, in my belief, an area that academic lawyers have been slow to appreciate, perhaps because they have not been engaged in the most important legal problems that confront us in the post-Cold War world.

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19. Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Dec. 18, 1997, 37 I.L.M. 1 (1998).

These comments are not offered as criticism, but rather to show how counter-productive the divide between academia and policy makers can be. Once again, the importance of revitalizing our foreign policy community, broadly defined to include both practitioners and academicians, is clear.

Finally, we must rethink our approaches to encouraging democracy in the evolving world. As a system of government, democracy is complicated, difficult to manage and expensive. Make no mistake: I favor the system. As Winston Churchill said, it is the worst, except for all the others. Yet, for those who have always lived under autocratic rule, an abrupt transition to democracy is unrealistic and often dangerous. It would be far better to focus first on the preconditions of democracy—conditions like transparency and accountability. These are the intermediate goals we should be exploring as the way to bring emerging nations to the ultimate goal of full democracy.

Consider Algeria, where a democratic election was aborted to avoid the unacceptable result of an extremist Muslim victory.<sup>20</sup> This debacle is a cynical and sad example, one created because of lack of understanding about underlying conditions. How can we say that we support democracy and then pull back if we think those being elected in the Islamic world are not those we would favor? Here again the fundamental lesson concerns the distortions that are created when vast portions of a population live in poverty and despair, kept in their place by governments that are corrupt. The advent of democracy is, for them, something far different than Western observers would expect or want.

## CONCLUSION

In addressing the threats that Dr. Naim has identified, our goal must be to attack root causes, not symptoms. When we consider these causes, we learn that the world is not a welcoming place for us or for our values. The proliferation of weapons of mass destruction

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20. See, e.g., *Algeria Plans New Assault on Islamic Fundamentalists*, L.A. TIMES, Nov. 30, 1992, at A10 (stating that Algeria declared total war on Islamic fundamentalists after authorities canceled a general election because Muslims fundamentalists appeared to have a sizeable lead).



convinces me that unless we begin to take this situation seriously, it both can and will grow worse. There will be more terrorist attacks. Our goal will be to anticipate and minimize the terrible damage that those attacks will do to us, to ward off as many of them as we can, and to understand that perfection is not realistic. At the same time, we must begin to work on what for this country is always difficult: long-term, perhaps amorphous, strategic goals that are designed to bring the nations of the world into far better economic balance. This is a task for economists as well as lawyers, in fact it is a task for all those concerned with foreign policy and national security.

Now is the time to begin this work; much of it will involve legal and policy tasks for which this audience is particularly suited to contribute. I hope you will accept the challenge.