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Response to Bobbitt - 2

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Response

Philip O. Geier

Philip Bobbitt's brilliant scholarship is most apparent when he thinks big, linking strategy and law over great expanses of time. His essay presented here suggests this and his magnum opus *The Shield of Achilles* impressively depicts an historical pattern over the course of 500 years whereby decades-long epochal wars are followed by treaties that stabilize and redefine the political and constitutional contours of the world. This pattern, we learn, has repeatedly changed the nature of organized societies, with the state taking differing forms over time.¹

Bobbitt sees this pattern recurring in the 20th century through what he calls the "Long War," beginning in 1915 and concluding in 1990 with the Charter of Paris. At the end of this so-called epochal war, the "nation-state" gives way to the "market state." Bobbitt indeed gives us much to ponder.

For whatever reasons, and certainly September 11 is among them, a new stability and legitimacy that might be expected from Bobbitt's historical model did not emerge on the heels of the Long War, and, all too quickly, we seem to be on the brink of another epochal war.

Our present horrific realities, Bobbitt explains, have arisen from the simultaneous development of three things: the commodification of weapons of mass destruction; the emergence of a global terrorist network; and the greater vulnerability due to technical advances that have brought nations into closer proximity, blurring traditional geographic boundaries. Bobbitt chronicles the threatening nature of our contemporary lives with a disturbing reminder of the widespread terrorism that has taken place over the past two years, beginning with September 11. The breadth and pace of this terrorism, what Bobbitt calls "the drumbeat of violence," seems to be gaining momentum and irreversibly so.

Bobbitt helps us grapple with this bleak reality by raising basic questions about "winning" the war on terrorism. Here he offers his most provocative insights and demonstrates the scope of his fertile mind. What, he asks, might define success in such a war? How, he wonders, might we reconcile the rights of individuals with the powers of government? This relates directly to his convincing point that today's world has broken down the previous inviolability of national

sovereignty. What are the legal and strategic parameters for fighting terrorism?

He concludes that, "our current ways of understanding terrorism render the problems practically insoluble." We need, it seems, to decide whether to redefine the problem or just find better solutions to the problem as already defined.

Only such an accomplished thinker and scholar as Bobbitt would dare to end his 900-page magnum opus with this final sentence: "I invite amendment." One reviewer of this extraordinary work commented that, "it inspires reflection even where it provokes disagreement." In that spirit, my own reflection on Bobbitt's thinking prompts me to offer a few variations on his contentions.

First, the 500-year cyclical pattern which he portrays — ever since 1500 there have been a series of five epochal wars at the end of which a new framework is legitimized by a treaty — seems less convincing about the 20th century, which he sees dominated by one Long War. Bobbitt chooses to combine the First World War, the Second World War, and the Cold War all into one Long War. Others of us would view at least the Cold War differently. The Cold War was not so much a fifty-year extension of war but instead, as former British Ambassador to the U.S. Peter Jay explains it, "an armed peacetime competition between Washington and Moscow for spheres of influence, always short of upsetting the equilibrium, however unstable, that preserved the nuclear stalemate and so the peace."²

Second, one might also contest whether the Charter of Paris in 1990 was a significant treaty that legitimized anything. As Bobbitt himself amply illustrates, the post-Cold War era did not establish any new stabilizing framework. The immediate aftermath of the Cold War led not to a new world order, as the first President Bush labeled it at the time, but instead to a new world disorder.

Third, one might take exception to Bobbitt's generalization that, "most states have lived for most of the 20th century" by a constitutional order that he labels the nation-state. This is simply to say that Bobbitt's focus over the 500 years (as well as in contemporary terms) has a distinctly Eurocentric orientation and largely overlooks the rest of the world.

Fourth, one might take a closer look at Bobbitt's generalization that the nation-state is mutating into a market state in the wake of the Long War. Certainly developments such as boundary-free technology and communications as well as transnational corporations have inadvertently or purposefully weakened or threatened the traditional roles and boundaries of countries. But these have been evolutionary and were evident well before the end of Bobbitt's Long War. I would argue that they not only existed during the Cold War but that they contributed mightily to its end. Hence, the mutation of the nation-state into a market state, at least in the U.S., was neither new nor a product of the end of the putative Long War. The American experience offers abundant evidence of "market state" inclinations throughout its history.

Beginning with the Constitution, which, among other things, legitimized "the pursuit of happiness," the American experience has contrasted starkly with the European experience (not to mention elsewhere in the world) in terms of how much the nation-state should provide for the welfare of its citizens. The market state maximizes its citizens' opportunities rather than providing for their welfare. The evolution of the market state has clearly accelerated over the past 25 years in terms of limiting the role of government as well as fomenting the emerging political preferences for the private sector over the public. It is ironic to note, however, that the current Bush administration, contrary to its political philosophy, has expanded rather than contracted the role of government and increased its public workforce by over one million people since 2000. In contrast to the American experience, the market state's more recent appearance and proliferation elsewhere in the post-Cold War world reflects a dramatic and controversial shift. One might even ascribe part of the current antipathy for the U.S. felt by the so-called "Old Europe" to this market state development.

In spite of the emergence of the market state, it is far too early to write off the nation-state. I believe that we will increasingly witness a tug-of-war between the roles of the public and private sectors in developed societies as long as the democratic model that emerged victorious from the Cold War remains dominant. Further, the flames of traditional nationalism have been fanned anew by terrorism and the war on terrorism to the detriment of supranational inclinations.

Fifth, one might argue that Bobbitt goes too far in characterizing Al-Qaida as a "virtual state," with such things as a standing army, trea-

sury, permanent civil service, and even a rudimentary welfare program for its fighters and families. The only thing Al-Qaida is missing in terms of being a traditional state, it seems, is contiguous territory. Perhaps a better characterization than “virtual state” would be to describe Al-Qaida as a multinational network of mercenary terrorists. This distinction is not just quibbling over terminology because it suggests a substantial difference in how to address the problem of Al-Qaida in particular and terrorism in general. Did September 11 really change everything, as the Bush administration believes? Are we now engaged in another epochal war, as Bobbitt posits? Are established international institutions really no longer relevant or useful?

With the collapse of the Soviet Union and the end of the Cold War, the U.S. emerged as the uncontested leader as well as the most powerful nation in the world. As we reflect on the present plight of the world, we would do well to consider the evolution over the past few years of America’s singular status.

I suggest that America’s unique preeminence is based on two significant traits: on the one hand, America is built on a set of values (freedom, individual rights, democracy) and unmatched material success (opportunity, the pursuit of happiness); on the other, America is built on unrivaled power in both military and economic terms. It is (or has been) the envy of the world due to this potent combination. This implies that America’s chances of sustaining its leadership in the world hinge on its ability to keep this combination in balance. By this line of reasoning, the U.S. must continue to demonstrate to others the centrality of its values, the vitality of its economic system, and the superiority of its military. To let go of any one of these components could threaten America’s leadership role in the 21st century. That is why we must ask whether the way the U.S. is conducting the war on terrorism is serving to enhance or diminish its leadership in the world?

Bobbitt rightly worries about the U.S. losing “its strategic hegemony and its legal legitimacy as the foremost leader of the West” as well as the West losing “its strategic hegemony as an alliance and its legitimacy as the chief formulator and adherent to the rule of law for the international community.” How does one maintain such a legitimate role as the foremost leader? How does one best maintain such a significant alliance? Since the U.S. has now asserted itself independently of

most of the international community, what has happened to its perceived value as the world's leader, as opposed to only the world's most powerful nation? While leadership and power can be mutually reinforcing, it may be that the U.S. is sacrificing its leadership by asserting its power while failing to demonstrate its values and retain the respect of its traditional allies.

It is clear that well before September 11 the new Bush administration had decided on a policy to reject a variety of international institutions and agreements. These included repudiation of the Kyoto Protocol on the environment, withdrawal from the 1972 Anti-Ballistic Missile Treaty, rejection of the Comprehensive Test Ban Treaty, dismissal of the protocol on the Biological Weapons Convention, and declaration as null and void former President Clinton's signature on the International Criminal Court Treaty (though it was a moot issue as it had never been ratified by Congress). One could argue the relative merits of each of these, but the indisputable cumulative impact has been a go-it-alone, even defiant, posture by the U.S. vis-à-vis the rest of the world.³

Even so, September 11 presented an unprecedented opportunity for the U.S. to galvanize the world in opposition to the common threat of terrorism. As diverse a group as Iran and the Palestinian Authority, Pakistan, China, and Russia (among many others) all condemned the attacks and pledged support. For the first time in its history, NATO declared the crimes of September 11 to be acts of aggression against the entire alliance. Out of crisis and tragedy emerged a moment of tremendous opportunity.

That moment of opportunity was lost. It slipped away as the Bush administration sacrificed broad-based coalition building in favor of deciding and acting only on its own terms. This began explicitly with President Bush's January 2002 State of the Union address to Congress, which turned the focus of the war on terrorism to the "Axis of Evil" countries, particularly Iraq. It continued with the publication of the National Security Strategy in September 2002, which transformed "anticipatory self-defense—a tool every president has quietly held in reserve—into the centerpiece of its national security policy." Former Secretary of State Madeline Albright criticizes the Bush administration for abandoning a policy of "reliance on alliance" and adopting instead a policy of "redemption through preemption." In the eyes of many around the world, this new doctrine of preemption suddenly constituted an American threat to international order.⁴

By 2003, America's war on terrorism had become largely a war on the "rogue state" of Iraq, lumping Saddam Hussein with Al-Qaida. Whatever merits there were to invading Iraq, the combination of the decision to do so and the way the decision was made effectively destroyed the opportunity resulting from September 11 for the U.S. to mobilize a unified multinational coalition against terrorism.

Instead of pursuing a coalition war on terrorism focused on Al-Qaida, the Bush administration chose a much higher risk strategy with the expectation of much higher returns. It chose to invade Iraq to transform the entire Middle Eastern region and to reorient American power in that region—for strategic, security, and economic reasons.⁵

The war in Iraq redefined the war on terrorism. As of this writing, it remains to be seen whether Bush's essentially unilateral action will achieve its strategic objectives. But what about the war on terrorism elsewhere? Results seem to be mixed at best. Focus on Al-Qaida has been blurred, any hope of a broad-based alliance has evaporated, the United Nations has been marginalized, and world opinion has turned against rather than for the U.S. How do these conditions relate to the original objective of combating terrorism? As the U.S. has flexed its military muscles in Iraq, are the U.S. and the world less or more threatened by terrorism?

Bobbitt's fascinating thesis about the role of the state implicitly raises another central question about how the U.S. has conducted its war on terrorism. Bobbitt asks "basic questions about winning the war on terrorism in terms of strategies and tactics." By invading Iraq, the U.S. has chosen to fight a traditional conflict of invasion and occupation of a state. By so doing, the U.S. may have undercut its own capabilities and resources, not to mention the loss of possible allies, in waging a nimble, multifaceted, and nontraditional war on terrorists.

What conclusions might we draw from this discussion? If our topic is the war on terrorism, how best should it be fought? If our topic is the changing character of the state in this era, how best should these changing states interact?

From my perspective, the basic issue is that of multilateralism versus unilateralism. My argument has been that the U.S. lost a rare opportunity immediately after September 11 to affirm its leadership and galvanize the world in a collective and persistent response.

Instead of affirming its leadership, however, it simply asserted its power.

Even the National Security Strategy paper had advised: “no nation can build a safer, better world alone.” Regrettably, the U.S. did not heed these words to any large extent.

One can conclude that unilateralism is impractical. It has also served to be isolating. It could be that it becomes self-defeating. World perceptions now view the U.S. as an international threat. This is quite a radical shift from the outpourings of sympathy and unity of purpose that appeared on the heels of September 11.

What if the U.S. acknowledged the isolating impracticality of unilateralism and desired to re-engage in some meaningful multilateral fashion? What new doctrines might shape a viable “new world order” that would be relevant to the changed global circumstances as well as be sustainable as we move ahead?

I believe that we are in an era of renewed nationalism, not—as some hope and others fear—that we are in era of globalized post-nationalism. That is to say that nation-states are not dissolving into market states in spite of numerous transcendent, supranational phenomena. Accordingly, we would be well served to reexamine the traditional context of *international* relations rather than thinking that this traditional framework is *passé*. In this regard, I suggest that we reconsider the potential of the United Nations, in spite of its obvious structural flaws and need for further reform.

Reformulating the U.N. would be a far better exercise than marginalizing it further. Could the U.N. be given a rejuvenated mandate? Could the U.S. work with others to develop a new international doctrine that is able to replace the U.N.’s anachronistic role of protecting state sovereignty? Might this new role be to protect a combination of national security and international human rights?⁶

Some major reform of the U.N. along these lines would, in my American way of looking at things, also allow for the reappearance of legitimate American leadership on the global scene.

Notes

1. Philip Bobbitt, *The Shield of Achilles: War, Peace, and the Course of History* (New York: Knopf, 2002).

2. Peter Jay, “Review of *The Shield of Achilles*,” *The Guardian* (8 June 2002).

3. James P. Rubin, “Stumbling Into War,” *Foreign Affairs* (September/October 2003): 46–66.

4. Madeline K. Albright, "Bridges, Bombs, or Bluster?" *Foreign Affairs* (September/October 2002): 2–19.
5. Michael Ignatieff, "Why are We in Iraq?," *The New York Times Magazine* (7 September 2003): 38ff.
6. *Ibid.*, p. 85.