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On the morning of September 11, 2001, three airliners were steered by terrorist hijackers into strategic targets, sending shockwaves of fear throughout the United States and the rest of the world. These attacks have since been described as the most severe to have taken place on American soil since the Japanese attack on Pearl Harbor in 1941.\(^1\) The implications of the September 11 terrorist attacks on the position of the United States as a hegemon are too many to list. But almost a decade later, at the twilight of the George W. Bush presidency, one of the most pervasive effects of the September 11 attacks on hegemony\(^2\) persists in U.S. national security rhetoric — namely,


\(^2\) The term ‘hegemony’ is applied as describing U.S. power and influence throughout this paper. The term is taken in its Gramscian sense to refer to the power projection capabilities of the U.S. as well as its “capacity to position particular responses to terrorism.” MATT
the almost omnipresent use of the word “terror” in the U.S.’s construction of its foreign policy and the use of that word to define and legitimize foreign policy ends.³

When discussions arise concerning the status of U.S. hegemony vis-à-vis the rest of the world, the subjects touched upon are usually what academics have termed “hard power hegemony,” (i.e. the ability of a nation to project its military force upon others), and “soft power hegemony,” (i.e. the ability of a nation to persuade others by diplomatic or other means).⁴ Rarely does such a discussion touch upon a nation’s rhetoric as a source of power. However, as the usage of the word “terror” and its variants became increasingly universal in, and thus important to, foreign affairs post-September 11, the usage of the word has itself become a source of power.⁵ Specifically, the ability of certain nations such as the United States to invoke the word “terror” to justify their actions and persuade organizations and nations of the world to cooperate with them


⁵ See Greidner, supra note 3.
has given rise to a unique form of hegemony that warrants analysis outside of the traditional forms of hard power and soft power. This aim of this Paper is to analyze the implications on U.S. hegemony of the use of the word “terror” and its variants in the construction of U.S. policy.

In examining the rhetoric of the U.S. War on Terror, this Paper will argue that U.S. definitions of “terror” have supercharged U.S. hegemony in the short term in a few key ways. First, this Paper will examine the various U.S. definitions of terror and contrast them with international definitions. In doing so, it will demonstrate that both a lack of consensus on a definition and the trend in viewing “terror” as an act of war have afforded the U.S. much flexibility in pursuing an anti-terror policy that is self-serving and that provided the Bush Administration with the flexibility to allow the U.S. to proactively project its power. The argument will then proceed to a discussion of how the rhetoric of terrorism compares to the “red scare” rhetoric used during the Cold War in order to create an existential threat to justify U.S. policies. Finally, the Paper will examine the sustainability of the U.S.’s use of terror rhetoric to bolster its hegemony - namely, whether the

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6 McDonald, supra note 2.
invocation of “terror” to justify unilateral policies is a sustainable enterprise in the post-Bush United States.

Without being asked a question about terrorism, U.S. President George W. Bush referred to "terrorism" (or a variant of the word) twenty-two times in a 2004 televised interview.\textsuperscript{7} International terrorism is frequently cited by world leaders as the greatest threat to Western democracies, a claim made before and after September 11, 2001.\textsuperscript{8} For a term that has been used so frequently and is so influential in determining the policies of the most powerful nations of the world, one would think there to be a static definition of the term – at least by each nation. Such is not the case, however. There is no universally accepted definition of terrorism among nations.\textsuperscript{9} Even more surprising is the fact that there is no clear definition of what terrorism is within the United States – the nation that has perhaps been most affected by the word in recent times.\textsuperscript{10}

\begin{itemize}
\item \textsuperscript{7} Reuven Young, \textit{Defining Terrorism: The Evolution of Terrorism as a Legal Concept in International Law and its Influence on Definitions in Domestic Legislation}, 29 B.C. INT'L & COMP. L. REV. 23, 24 (2006).
\item \textsuperscript{8} Id.; \textit{UN Action to Counter Terrorism} (2006), http://www.un.org/terrorism/strategy/ (last visited Nov. 28, 2006).
\item \textsuperscript{9} Young, supra note 7.
\item \textsuperscript{10} See generally Id.
\end{itemize}
Although there are many definitions of “terrorism” available for legislative purposes, the word itself has never been given a static definition in the context of U.S. policy.\textsuperscript{11} Black’s law dictionary defines terrorism as: “the use or threat of violence to intimidate or cause panic, especially as a means of affecting political conduct.”\textsuperscript{12} Policymakers and scholars have tried to define the term further to pinpoint the meaning of “terrorism” with more accuracy, but to no avail. From these attempts, however, have developed five common elements of “terrorism:”

1) The perpetration of violence by whatever means;
2) The targeting of innocent civilians;
3) With the intent to cause violence or with wanton disregard for its consequences;
4) For the purpose of causing fear, coercing or intimidating an enemy;
5) In order to achieve some political, military, ethnic, ideological, or religious goal.\textsuperscript{13}

In spite of these five elements existing as a common thread in U.S. definitions of “terror,” neither Congress nor the

\textsuperscript{11} Id.

\textsuperscript{12} BLACK’S LAW DICTIONARY 1484 (7th ed. 1999).

\textsuperscript{13} Susan Tiefenbrun, A Semiotic Approach to a Legal Definition of Terrorism, 9 ILSA J. INT’L & COMP. L. 357, 358 (2003).
Executive has been able to reach a consensus on a single definition of the term.\textsuperscript{14} However, this inability has proven to be more of a strength than a weakness.\textsuperscript{15} In a time when the fight against terrorism has made its way to the forefront of U.S. foreign and domestic policy, an ambiguous concept of what the U.S. is fighting – namely, terrorism – serves to delimit the scope of areas in which the U.S. can claim to justifiably project its power.\textsuperscript{16} As the popular maxim goes, one man’s terrorist is another man’s freedom fighter.\textsuperscript{17} The ambiguities inherent in the many U.S. definitions of “terror” have provided the U.S. the requisite flexibility to strategically target its “terrorists” while at the same time leaving its “freedom fighters” unscathed.

Apart from the inherent ambiguities in the general U.S. concept of terrorism, an analysis of specific U.S. federal government definitions of terrorism will demonstrate a chronological trend toward a concept of terrorism as an act of

\textsuperscript{14} Id.

\textsuperscript{15} MCDONALD, supra note 2.

\textsuperscript{16} Id.

war as opposed to one of terrorism as a crime.\textsuperscript{18} Crimes are prosecuted after the fact of their commission, which means that policies targeting crimes are generally reactive and not proactive. That characteristic can often limit the scope of possible government actions to reactionary policies responding to crimes that have already been committed - namely, the investigation and prosecution of such acts in the penal system. Wars are handled according to a much different set of rules. Empirically, once wars have been declared, nations have been able to use preemptive measures to counter and deter attacks by their enemies.\textsuperscript{19} It is thus conducive to U.S. hegemony to talk about terrorism as constituting an act of war and declaring a "War on Terror," for such rhetoric can be and has been used to justify a proactive outward projection of power.\textsuperscript{20} Such a view

\textsuperscript{18} TIMOTHY GARTON ASH, FREE WORLD 109 (2004) (explaining the unprecedented nature of the preemptive approach towards terrorism taken by the U.S. post-9/11).

\textsuperscript{19} See MCDONALD, supra note 2. (explaining the Bush Administration’s commitment to “preeminence, pre-emption and unilateralism post-9/11)

\textsuperscript{20} This phenomenon has occurred more frequently in recent times. Examples include the pre-emptive attacks on Al Qaeda strongholds in Afghanistan by Tomahawk cruise missiles during the Clinton Administration and the overthrowing of the Taliban in Afghanistan by the George W. Bush Administration. MCDONALD, supra note 2.
has evolved through the many definitions of “terrorism” that the U.S. federal government has used over the past decade. It is worthy of noting here, however, that at least by the end of 2008, President-elect Barack Obama has never used the term “war on terror” in explaining his foreign policy goals, nor has his rhetoric included any other indicia of the belief that terrorism constitutes an act of war rather than a crime.\textsuperscript{21}

The history of current uses of the term “terror” in U.S. foreign policy begins, surprisingly, not with the post-September 11 policies of the Bush Administration, but rather, with anti-terror policies promulgated by President Bush’s predecessor, William J. Clinton. Under the 1996 U.S. Anti-Terrorism Act, which is still binding upon policymakers, “terrorism” is defined as “[t]he unlawful use of violence against the U.S., citizens of the U.S., or any other nation, outside the boundaries of the U.S., apparently intended to intimidate or coerce a civilian population, influence government policy, or to affect the conduct of a government for political or social objectives.”\textsuperscript{22}


\textsuperscript{22} Jason Binimow & Amy Bunk, Annotation, Validity, Construction, and Operation of “Foreign Terrorist Organization” Provision of Anti-
It must first be noted that this definition tends to treat terrorism as a crime by aiming to define it with necessary elements. This definition includes the five common elements of “terrorism” cited above, but does not list specific terrorist acts that can be classified as criminal.

As discussed above, defining “terrorism” as a crime can be limiting, as crimes are prosecuted after their commission and not proactively. However, regardless of its characterization of terrorism as a crime, the Anti-Terrorism Act has contributed to U.S. hegemony through its vagueness and flexibility in not specifying instances of “terrorist acts.” Such flexibility allows policymakers to determine who is and who isn’t a “terrorist,” which means there is room for political bias to dictate anti-terror policies. For example, was a terrorist act undertaken when a group of rioters destroyed private property in London in 1999 in an attempt to sway government policy away from the goals proscribed by the World Trade Organization?\(^2\)\(^3\) The fact that the answer to that question depends on the person or group being asked is a good indication that the Anti-Terrorism Act’s

definition of “terror” is tremendously flexible. Whether this flexibility is advantageous or disadvantageous from the standpoint of the international community is neither here nor there. What matters for the purposes of this Paper is that this particular definition is vague enough to allow the U.S. to invoke it in self-serving ways, which is evidence of the bolstering effect that anti-terror rhetoric in legislation has on U.S. hegemony.

With the ascendency of the Bush Administration, and particularly post-September 11, new anti-terror legislation continued the tradition of vagueness and flexibility in defining the term “terrorism.” Under the 2001 U.S. Patriot Act, for acts to be defined as “terrorist acts,” the government must show that they were “calculated to influence or affect the conduct of a government by intimidation or coercion or to retaliate against government conduct.” This definition may be limiting in that it requires insight into the mental state of the perpetrator through its inclusion of the language “calculated to . . . .” At first glance, such language seems to indicate a continuation of the tendency to treat terrorism as a crime with necessary elements. However, the Patriot Act is a step away from the

limiting view of terrorism as a crime inherent in its older sibling, the 1996 Anti-Terror Act.

The Patriot Act provides the U.S. government more leeway and thus power in conducting its international War on Terror in a few key ways. To begin with, mere threats or acts that impact the U.S. or global economies may be classified as terrorist acts under this definition. In this way, the Patriot Act treats terrorist acts much like acts of aggression or other acts of war. Furthermore, the Patriot Act definition reduces the purpose clause (i.e. “. . . calculated to influence or affect the conduct of government . . .”) to the achievement of political goals, which has two important implications on U.S. hegemony.  

First of all, it broadens the definition of “terrorism” to include state as well as private actors under its umbrella. That expanded interpretation gives the U.S. government more flexibility in strategically labeling different entities as “terrorist” to justify projecting its power against them as such. Second, reducing the purpose clause to simply mean the achievement of political goals provides the U.S. government with a bridge between crime fighting in the context of terrorism and its overarching foreign policy goals. This has

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25 Id.
26 Id.
allowed the U.S. government (namely, the Bush Administration) to tie broad political movements to terrorism and oppose both under the umbrella of its “War on Terror.”

Following the trend set by the Patriot Act, the 2001 International Money Laundering Abatement and Financial Anti-Terrorism Act (IMLAFATA) defines “global terrorists” to include “individuals, organizations, charities, and business entities.” While this part of the statute does not attempt to define acts of terrorism with any recognizable elements, it builds upon other U.S. federal government definitions by expanding the scope of terrorism to reach more groups. This approach is consistent with the rhetoric of the Bush Administration in the wake of September 11, when President Bush notably proclaimed to the rest of the world, without specifying whether he was addressing nations or individuals, that they were either with the United States in its War on Terror or “with the terrorists.”

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27 Ash, supra note 18.

28 See id. (The International Money Laundering Abatement and Financial Anti-Terrorism Act is the U.S. version of the UN International Convention for the Suppression of the Financing of Terrorism (1999) and was enacted as Title III of the U.S.A. Patriot Act.).

the classification of “terrorist” to reach individuals, organizations, businesses, and even charitable institutions, the IMLAFATA has given the Bush administration’s proclamation teeth by providing it with a statutory basis to go after almost any individual or entity it classifies as “terrorist.”

Under the current Federal Bureau of Investigation (FBI) definition, “terrorism” is the “unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in the furtherance of political or social objectives.” This definition is noteworthy in that it omits the element of intent found in other definitions, and it delimits the purpose element to include the achievement of political or social objectives. Even though the FBI is a federal law enforcement agency, the absence of a *mens rea* element in its definition of terrorism is characteristic of a shift away from viewing terrorism as a crime


30 *ASH*, *supra* note 18.

31 United States Department of Justice, FBI, *Terrorism in the United States*, 1988 (Terrorist Research and Analytical Center, Counter-terrorism Section, Criminal Investigative Division, December 31, 1988), at 34.
and towards a conception of terrorism as an act of war.\textsuperscript{32} Further supporting that trend is the definition’s silence on the issue of state-sponsored terrorism.\textsuperscript{33} Perhaps strategically, the FBI definition does not foreclose the possibility that a state can engage in terrorism. That has allowed the FBI to participate in intelligence gathering and law enforcement operations that are connected to military operations abroad, including U.S. intelligence operations in Afghanistan and Pakistan.\textsuperscript{34}

The FBI’s involvement in such operations is a smoking gun among the abundance of evidence establishing a relationship between the U.S. definition of terror and a bolstered U.S. hegemony. After September 11, 2001, there has been a documented penetration of Pakistani intelligence by the FBI in its intelligence support in the “War on Terror.”\textsuperscript{35} Using a conception of terror as an act of war to justify preemption and intelligence gathering, the FBI has been allowed to gain control over sectors of Pakistan’s armed forces, police, and

\textsuperscript{32} See id.

\textsuperscript{33} See id.


\textsuperscript{35} Id.
intelligence agencies.\textsuperscript{36} The FBI has also gained almost unlimited control over Pakistani airports and there are reports that it has been given access to the bank account numbers and banking information of Pakistani citizens.\textsuperscript{37} Such an unprecedented exertion of power by a U.S. agency overseas is a clear indication of the supercharging force this new view of terrorism as an act of war has on U.S. hegemony.

The current U.S. State Department definition of “terrorism” is “premeditated, politically motivated violence perpetrated against noncombatant targets by sub-national groups or clandestine agents, usually intended to influence an audience.”\textsuperscript{38} This definition includes all five of the core elements described above as well as a \textit{mens rea} element. Such a definition comports with the traditional view of terrorism as a crime. However, this definition also limits the purpose to politically motivated goals, which as discussed above, has broadened the conception of terrorism to internationalize and politicize the term, which is more in line with the view of terrorism as an act of war.\textsuperscript{39}

\begin{footnotesize}
\begin{enumerate}
\item Id.
\item Id.
\item Id.
\end{enumerate}
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Also noteworthy is that the State Department definition, under the doctrine of *expressio unius est exclusio alterius*,\(^{40}\) arguably limits out terrorism committed by a state because it lists only sub-national groups.\(^{41}\) However, the U.S. State Department’s definition of “terrorist group” includes “any group practicing, or that has significant subgroups that practice international terrorism,”\(^{42}\) which could arguably expand the purview of the State Department’s definition to include state-sponsored terrorism or terrorist acts undertaken by states themselves. This inherent ambiguity has, in practice, provided the Bush Administration with the flexibility to justify some of its most unjustifiable examples of power projection. For example, when the Bush Administration was hard-pressed to provide a justification for a continued U.S. presence in Iraq, State Department rhetoric stressed the necessity of such a presence in order to keep in check the alleged support of Al

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\(^{40}\) This doctrine, translated from Latin to mean “the exclusion of one thing is the expression of another,” states that the exclusion of a term in certain contexts is tantamount to an affirmative statement of intent to not include that term.


\(^{42}\) *Id.*
 Qaeda terrorists by Iraqi factions and institutions. The State Department can thus point to the wide net cast by its definition of “terror” to use any instance of an Al Qaeda (or other “terrorist” entity) presence within the borders of any country as a justification for continuing its much criticized policies of preemption and interventionism.

In contrast to the plethora of definitions of terrorism that the U.S. federal government has to choose from in conducting its policy against terrorism, the definitions provided by other influential nations and multinational institutions are not as flexible and treat terrorism more like a crime. For example, the French definition of terrorism in the French Criminal Code states that “[a]cts are terrorist acts when they are intentionally committed by an individual entity or by a

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44 ASH, supra note 18.

collective entity in order to seriously disturb law and order by intimidation or by terror."\(^{46}\) This general definition, in typical Civil Code fashion, is followed by a list of specific acts that constitute terrorism.\(^{47}\) Article 421-1 of the French Criminal Code lists attempted murder, assault, kidnapping, hostage-taking on airplanes, ships, and other means of transport, the production or ownership of weapons of destruction and explosives, the acquisition, ownership, and transport of illegal explosive substances, among other crimes, as predicate offenses to terrorist acts.\(^{48}\)

That this article on terrorism appears in the French Criminal Code is sufficient evidence – at least in theory, if not also in praxis – that France, unlike the United States, has taken a more rigid stance in treating terrorism as a crime rather than as an act of war. Moreover, the French definition contrasts U.S. definitions on a substantive level, as the former specifies acts that constitute terrorism, providing the French government little leeway to project itself outwardly against potential threats in the name of combating terrorism. Other provisions of the French Criminal Code cover the sponsorship of

\(^{46}\) Id.


\(^{48}\) Id.
terrorist acts or organizations and impose specific penalties on individuals, corporations, and other entities that engage in such behavior. All of these provisions, with their specific descriptions of the acts they prohibit, and specific punishments for violations, are in line with the view of terrorism as a specific crime to be prosecuted ex post facto.

The European Convention on the Suppression of Terrorism (ECST), signed in 1977 by seventeen of the nineteen members of the Council of Europe, mandates that all states treat assassination, hostage-taking, bombings, and hijackings as “common crimes.” It does not take much analysis to show that the Council of Europe’s understanding of “terrorism” categorized the term as a criminal act. That intent could not be any more clearly stated than it is in the ECST.


The ECST definition is now only significant in tracing the history of unified Europe’s conception of “terrorism,” as the Council of Europe has given way to the European Union (E.U.), which has since promulgated its own anti-terror policies. Nonetheless, the spirit of the Council of Europe’s definition persists in E.U. policy. The ECST definition remains, so to speak, an encapsulation of the still-prevailing European view of terrorism as a crime, as distinct from the U.S. view of terrorism as an act of war. It thus demonstrates that the U.S. view is uniquely conducive to hegemonic behavior in the form of preemption and outward power projection, while the prevailing norms elsewhere are not.\textsuperscript{51} Current European Union treatment of the term “terrorism” follows this model.\textsuperscript{52}

Even where E.U. policy on terrorism is vague and allows for the sort of flexibility that U.S. policymakers have used to bolster U.S. hegemony, in practice, the E.U. has nonetheless followed the more limiting interpretation of terrorism as a crime. A good example is provided by Article 1 of the European Union’s Framework Decision on Combating Terrorism (2002). That

\textsuperscript{51} See for example notes 28-33, supra.

article provides that terrorist offenses are criminal in nature.\textsuperscript{53} Beyond that provision, the article is extremely ambiguous and flexible. It describes terrorist acts as serious offenses against persons and property which, “given their nature or context, may seriously damage a country or an international organisation where committed with the aim of: seriously intimidating a population; or unduly compelling a Government or international organisation to perform or abstain from performing any act; or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.”\textsuperscript{54} Here, the ambiguities lie not in what the Framework Decision has provided for, but rather in where it is silent. To be sure, the Framework Decision does not speak to whether terrorist acts can be commissioned by States and includes a mens rea element that is almost entirely open-ended.\textsuperscript{55} By providing that an act that “may seriously damage a country,” committed “with the aim of . . . unduly compelling a Government . . . is a terrorist act, the European Union’s definition could potentially categorize such

\textsuperscript{53} Id.


\textsuperscript{55} Id.
acts as the U.S. embargo on Cuban goods terrorist acts.\textsuperscript{\textit{56}} However, Europe’s underlying view of terrorism as a criminal act has probably been responsible for precluding such an application of the term.

The United Nations (UN) has also yet to come up with one static definition of “terrorism,” even after the September 11 attacks on the United States.\textsuperscript{\textit{57}} However, the UN has a long history of attempting, without defining terrorism, to create guidelines and obligations for States to follow in order to prevent the commission of terrorist acts.\textsuperscript{\textit{58}} There are currently twelve major multilateral conventions and protocols that address the responsibilities and obligations of States in preventing and fighting terrorism, the most important of which are examined below.\textsuperscript{\textit{59}} Additionally, there are a variety of UN Security Council and General Assembly Resolutions that address specific incidents of international terrorism.\textsuperscript{\textit{60}} Most of these

\begin{footnotes}
\item[\textsuperscript{\textit{56}}] Dumitriu, \textit{supra} note 53.
\item[\textsuperscript{\textit{57}}] Tiefenbrun, \textit{supra} note 13, at 376.
\item[\textsuperscript{\textit{59}}] \textit{Id}.
\item[\textsuperscript{\textit{60}}] \textit{Id}.
\end{footnotes}
conventions and resolutions require member States to exercise criminal jurisdiction over offenders, yielding the conclusion that there is an international norm, beyond Europe, to treat terrorism and terrorist acts as crimes.\(^{61}\) It will become apparent from the analysis below that wherever the UN has veered from this course of treating terrorism as a crime, it has done so under pressure from the United States, thus yielding two important conclusions: (1) that the idea of “terrorism” as an act of war is uniquely American, and (2) that the word “terror” has proven a valuable tool to bolster U.S. hegemony short-term.

The history of the UN’s formal treatment of the word “terror” begins with the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention).\(^{62}\) The Hague Convention makes it a criminal offense to “unlawfully, by force or threat thereof, or any other form of intimidation, seize or exercise control of [an] aircraft.”\(^{63}\) The Hague Convention also requires State parties to punish hijackings with “severe penalties” and makes extradition of offenders mandatory.\(^{64}\) That the Hague Convention differs from current U.S.

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61 Id.


63 Id. at 107.

64 Id.
policy by treating terrorist acts as isolated criminal offenses is self-evident. But perhaps the greatest evidence of the difference between the view of terrorism inherent in the Hague Convention and that espoused by recent U.S. policy comes from examining the clause of the Hague Convention that imposes mandatory penalties for the commission of terrorist acts. This is a classic example of a rule that deals with terrorist acts on an ex post facto basis, which is in stark contrast to the preemptive rhetoric of a “War on Terror” employed by the Bush Administration.

The 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal Convention) criminalizes the “unlawful and intentional” performance of “an act of violence against a person on board an aircraft in flight, if that act is likely to endanger the safety of that aircraft; to place an explosive device on an aircraft; and to attempt such acts or be an accomplice of a person who performs or attempts to perform such acts . . . .”\(^65\) A 1988 additional protocol extended the provisions of the Montreal Convention to cover terrorist acts undertaken at international civil airports.\(^66\) The Montreal Convention, like the Hague

\(^{65}\) Convention for the suppression of unlawful acts against the safety of civil aviation art. 1, Sept. 23, 1971, 974 U.N.T.S. 177, 178.

\(^{66}\) Supra note 41.
Convention, also mandates “severe penalties” for offenders as well as extradition of offenders by the State in which they are found.67

The 1979 International Convention Against the Taking of Hostages (Hostages Convention) provides that “any person who seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as a explicit or implicit condition for the release of the hostage commits the offence of taking a hostage . . . .”68 More recent, but still following the pre-September 11 UN trend of characterizing terrorism as a criminal act, was the 1997 International Convention for the Suppression of Terrorist Bombing.69 This Convention was created under a UN General Assembly Resolution and created universal jurisdiction over “the unlawful and


intentional use of explosives and other lethal devices in, into, or against various defined public places with intent to kill or cause serious bodily injury, or with intent to cause extensive destruction of the public place.”

Apart from the fact that none of these conventions actually defines “terrorism,” the general concept that they all aim to combat, these conventions all share another common characteristic – namely, that they all intimate that terrorism should be treated as a crime to be prosecuted after the fact of its commission. Furthermore, the specificity of these conventions in terms of their scope is evidence of a traditional UN view of terrorism as an isolated incident. For example, the Hague and Montreal Conventions deal only with acts aboard aircraft or in international civil airports. In explaining terrorism in the context of a hijacking or a bombing of an aircraft, these documents paint a picture of terrorism as acts that are independent of one another; a set of unconnected dots. In contrast, the definitions of “terror” in the U.S. policies discussed above describe terrorism more as movements or

70 Id.

campaigns. An example of how the U.S. has done so lies in the U.S. State Department, speaking in the broad terms, of an entity “practicing terrorism.” This rhetoric of terrorism as a practice has functionally connected the dots and provided the U.S. with the justification to wage an ongoing campaign of its own against terror, whereas the view espoused by the Hague and Montreal Conventions permits only isolated responses that are limited in scope to the specific act committed.

The first time the UN attempted to define the general notion of terrorism was in 1994 with the adoption of General Assembly Resolution 49/60. Resolution 49/60 contains a provision declaring that: “Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any


circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them." This Resolution was the first declaration by the UN that all acts of terrorism are categorically unjustifiable. The 1994 Resolution lacked teeth, however, as it provided no enforcement mechanism to deal State violators. That characteristic of the 1994 Resolution can probably be attributed to the UN’s view of terrorism as isolated incidents that did not require a constant and proactive campaign in order to deal with them. That view would change after September 11, 2001, as the United States would begin to pressure the UN and its individual member states to sanction its proactive stance on combating terrorism.

After the September 11 terror attacks, the UN ventured on a sharp vicissitude from its previous characterization of

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76 Sharma, supra note 73.
78 See id. (speaking not in terms of a general campaign of terrorism, but rather the employment of terrorist tactics by independent groups and by agents engaging in the commission of other crimes).
terrorist acts as independent, unconnected criminal offenses.\textsuperscript{80} However, this change in policy did not mark a change in the world’s view of terrorism, but rather, was evidence of the U.S. acting as a hegemon and throwing its weight around the international community to make its view of terrorism the dominant one.\textsuperscript{81} On September 28, 2001, the UN Security Council, of which the U.S. is a vocal and influential member, acted unanimously to adopt Resolution 1373, requiring all member States to deny financial support to terrorists, to not harbor terrorists, to share information about groups planning terrorist attacks, and to criminalize any assistance to terrorist activities.\textsuperscript{82}

Resolution 1373 was adopted pursuant to Chapter VII of the UN Charter, which means it contains legally enforceable obligations that if violated, can result in the threat of sanctions.\textsuperscript{83} The obligations imposed by the Resolution include


\textsuperscript{81}See id. at 8 (explaining the tendency of powerful nations to use the word “terror” to exert political sway in pursuing specific targets).

\textsuperscript{82}Id. at 2.

the criminalization of terrorism and the financing thereof, and recommendations for forms of international cooperation against terrorism ranging from collaboration between police and intelligence services to judicial assistance between legal systems. The Resolution also calls for all member States to sign and ratify the 12 existing international instruments against terrorism, some of which are analyzed above. Prior to passage of 1373, the Security Council had acted only retroactively by taking such actions as imposing sanctions against Libya for its participation in the bombing of Pan Am flight 103 over Lockerbie, Scotland as well as for the 1989 attack on a French UTA airliner over Niger. Resolution 1373 thus marks a departure from the old attitude of the Security Council, towards one that imposes preemptive general obligations on member states.

Resolution 1373 may accurately be described as the product of pure U.S. hegemony. Its text specifically cites the September 11 terrorist attacks, which uniquely impacted the

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84 Id.
85 Id. at § 3(3).
86 Rupérez, supra note 79.
87 Id.
U.S. It continues with language "expressing determination to prevent all such attacks." While these characteristics of the Resolution show that the UN (and presumably, the international community) was moved by what had happened to the U.S., they do not automatically bring one to the conclusion that Resolution 1373 was a manifestation of U.S. political influence. That conclusion comes, rather, from the Resolution’s considerably short drafting period.

The U.S. rallied hard for prompt passage of Resolution 1373, which it viewed as a valuable tool for a U.S.-led international War on Terror. In fact, passage of Resolution 1373 was heralded as the almost single-handed accomplishment of U.S. Ambassador to the UN John Negroponte. Apart from the U.S. exerting its influence from within the UN, the Bush Administration directly solicited other countries’ cooperation and compliance with the mandates of Resolution 1373. Finally,

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89 Id.
91 Id.
92 Id.
and perhaps the most glaring evidence of the influence that U.S. hegemony exerted in shaping Resolution 1373, is the fact that the text of the resolution drew significantly from the text of President Bush’s Executive Order against terrorism.\(^93\) Therein, President Bush referred to the “pervasiveness and expansiveness of the financial foundation of foreign terrorists,” thereby characterizing terrorism as an interconnected global campaign rather than an unconnected set of criminal acts.\(^94\) The penetration of that view into the UN via Resolution 1373 is the perfect example of the U.S. using its view of the word “terrorism” to compel the international community to deviate from its well-established principles and cater to U.S. policy.

As the dust settled at Ground Zero, so too did the international community’s impulsiveness in being persuaded by the U.S.\(^95\) As evidenced by its current difficulties\(^96\) in coalition building, the U.S. no longer possesses the incredible


\(^{94}\) Exec. Order No. 13224, 3 C.F.R. 786.

\(^{95}\) MCDONALD, supra note 2.

\(^{96}\) International disagreement over the legitimacy of the U.S. war in Iraq as well as disagreement over how to handle threats from Iran and North Korea demonstrate that the international community no longer automatically follows the lead of the U.S.
power it yielded on September 28, 2001, when it persuaded the U.N. Security Council to pass Resolution 1373 almost without debate.\textsuperscript{97} Even former UN Secretary General Kofi Annan later expressed dissatisfaction with the patently ambiguous and seemingly ad-hoc definitions of “terrorism” provided by the U.S. and the rest of the international community.\textsuperscript{98} Annan thereafter called upon the member states of the UN to come to a consensus on defining “terrorism.”\textsuperscript{99} However, his efforts proved fruitless, and his successor, Ban Ki-moon, has accomplished little more.\textsuperscript{100}

There is still no comprehensive definition of “terrorism” coming from the UN.\textsuperscript{101} That means that the conceptions of “terrorism” that have most recently been put into operation by the UN remain those inherent in Resolution 1373; the last significant Resolution addressing terror, and one that is very American in its origin.\textsuperscript{102} Thus the importance of the word “terror” in maintaining U.S. hegemony in certain areas of its

\textsuperscript{97} Rupérez, supra note 79.


\textsuperscript{99} Id.

\textsuperscript{100} Id.

\textsuperscript{101} See id.

\textsuperscript{102} Id.
foreign policy. While the clout of the U.S. has indeed decreased in areas, the fact remains that there is almost a general consensus amongst the international community that terrorism is categorically bad. That means that the U.S. can still invoke the word “terror” and use it to exert influence on the rest of the world. Even though President-elect Obama has declined to endorse the need for a “War on Terror,” his rhetoric throughout his presidential campaign and during the transition period between his election and his inauguration have indicated a willingness to use anti-terror policy to further the U.S. foreign policy agenda – albeit on more multilateral and cooperative terms. As long as neither the U.S. nor the rest of the world has a static definition of “terror,” the U.S. will maintain that word as a trump card that it can use to throw its weight around and push for specific policy actions.

To summarize, the above analysis of attempts at defining terrorism demonstrates a few key points. First, the U.S. has taken advantage of its lack of a clear-cut definition of terrorism in two ways. The U.S. has benefited from the vagueness inherent in and resulting from its many statutory and regulatory definitions of terror by maintaining the requisite

103 Id.

104 Rivkin, Jr. & Korb, supra note 21.
flexibility to pick and choose the targets of its power projection. Second, in doing so, the U.S. has demonstrated a clear trend from a concept of “terrorism” as a crime towards “terrorism” as an act of war. This trend has allowed the U.S. to shift its approach to terror from one that is \textit{ex post facto} to one that is preemptive, thereby justifying U.S. hegemonic power projection. Finally, the trends in influential international organizations such as the UN demonstrate that the U.S. has thrown its weight around the international community to get the rest of the world on board with its view of terrorism as an act of war justifying U.S. interventionism abroad. The most disquieting implication of these characteristics of the current status of the definition of “terrorism” is the means by which the U.S. has been able to use the threat of terrorism as a vehicle for hegemonic power projection.

In (perhaps strategically) failing to provide a static, comprehensive definition of “terrorism,” the U.S. has been able to construct terrorism as an existential threat in much the same way it constructed the threat of communism during the Cold War.\textsuperscript{105} During the Cold War, the U.S. engaged in ideological warfare with the Soviet Union and in doing so, constructed a threat out of all that was related to communism or the

\textsuperscript{105} Greidener, \textit{supra} note 3.
Soviets. This nebulous existential threat was not immediately grounded in a fear of invasion or direct harm, but began as a fear of a different ideological system coming to dominate the world’s thought and politics. By implementing the manipulation of fear into its politics, the U.S. was able to supercharge its already dominant position in the world by persuading countries to come under its protective umbrella or else face the threat of communism. This section of the Paper will compare the U.S.’s treatment of the word “terror” to U.S. rhetoric during the Cold War in order to explain the inner-workings of how power is derived from language. The Paper will then proceed to an explanation of how the lack of a static U.S. definition of “terror” has allowed the Bush Administration to use fear as a political tool. In doing so, it will attempt to draw parallels between the U.S. War on Terror and the Cold War in order to demonstrate how language was used in each to create fear and exert power.

In declaring a general War on Terror, President George W. Bush arguably started a cold war of his very own. Just as

\[106\] Id.


\[108\] See id.
during the Cold War, the U.S. now finds itself in an era defined by an almost complete commitment of resources to a fight against a “vast, unseen and malignant adversary.”\textsuperscript{109} Both the Cold War and the current U.S. War on Terror are based on the fear of a foreign, ideologically different, and thus unpredictable other.\textsuperscript{110} However, instead of a pervasive fear of Soviet communists taking over the world and infiltrating American society, the War on Terror is based on an equally pervasive fear of religious fundamentalists willing to do anything to destroy Western ideals and the Western way of life.\textsuperscript{111} In both the Cold War and the current War on Terror, the use of language as a tool of power functioned to create a sense of fear as a vehicle for commanding the formation of policy.

\textsuperscript{109} Greidener, supra note 3.


\textsuperscript{111} Id.
Language is most certainly a form of power. While language usually typifies form in the form/content distinction, language also serves to impact content by affecting people’s conceptions of truth. To be able to affect the way people think must have at least some impact on the way people act, if not a tremendous one. By giving meaning to the words people use, he who controls language can alter a person’s idea of truth. Though not an act of forceful bullying, the manipulation of language nonetheless constitutes an exertion of power and control. According to French philosopher Michel Foucault:

Each society has its regime of truth, its ‘general politics’ of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth;

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113 *Id.*

114 *Id.*
the status of those who are charged with saying what counts as true.\textsuperscript{115}

While Foucault speaks primarily of governments and those in positions of dominance exerting control over individual people, his characterization of the effect of shaping truth is applicable in the context of nation states. By equating the word “communism” with godlessness and malevolence, Americans during the Cold War turned a clash of ideology into a fight between good and evil.\textsuperscript{116} In this way, the dominant voice in American politics gave no meaning to the word “communism” and thereby constructed people’s conceptions of the truth regarding that word.\textsuperscript{117} Much like the Cold War, the War on Terror employs a logic that labels people and groups in a way that characterizes them as categorically evil.\textsuperscript{118} By invoking the word “terror,” a word that has come to connote evil, U.S. policymakers have been able to create an element of fear sufficient to justify the eradication of those people or groups

\textsuperscript{115} Id. at 131.

\textsuperscript{116} See generally FORDHAM, supra note 105.

\textsuperscript{117} See generally WILLIAM C. WOHLFORTH, The End of the Cold War as a Hard Case for Ideas, JOURNAL OF COLD WAR STUDIES 165-6 (2005).

it terms “terrorist.””\textsuperscript{119} Fear created by language that operates in that regard is a “political commodity [that] has no practical limits.”\textsuperscript{120}

During the Cold War, fear was used to influence people to support the U.S., or else face losing their freedom to the spread of communism.\textsuperscript{121} Termed the “red scare,” this tactic involved the use of rhetoric through propaganda campaigns to draw a line between the righteous, moral self (the United States), and the evil, godless other (the Soviet Union).\textsuperscript{122} To the “Western” world, Soviet leaders, citizens, and organizations lost their identity as such and came to be seen only as communists.\textsuperscript{123} Their mere existence was constructed as a threat through the rhetoric of U.S. policymakers. In a highly effective, albeit twisted fashion, the U.S. was thus able to maintain its hegemony, as it could justify policies of expansion, including the stationing of U.S. troops abroad, the

\textsuperscript{119} Greidener, supra note 3.

\textsuperscript{120} Id.


\textsuperscript{122} Greidener, supra note 3.

\textsuperscript{123} See id.
formation of certain alliances, and the participation in foreign wars all in the name of containing communism.\textsuperscript{124}

Whereas the word “communism” functioned as a trump card in justifying U.S. action during the Cold War, the word “terror” has come to serve U.S. policy in the U.S. War on Terror in quite the same way.\textsuperscript{125} During the Cold War, the U.S. employed a policy whereby it targeted communism as an existential threat.\textsuperscript{126} In doing so, the U.S. justified the exertion of its influence (militarily and otherwise) in almost every region of the world.\textsuperscript{127} It is by such means that the U.S. engaged in conflicts in North Korea and Vietnam and provided economic assistance to Eastern European nations through programs such as the Marshall Plan.\textsuperscript{128} In a like manner, the U.S. has recently used its vague,\


\textsuperscript{126} \textit{Id.}

\textsuperscript{127} \textit{Supra}, note 122.

\textsuperscript{128} \textit{Id.}; Steve Kraske & Rick Montgomery, \textit{Rumsfeld: Remember the Cold War}, KANSAS CITY STAR, Mar. 2, 2006,
definition-less concept of “terror” to link the existential threat of terrorism to what it refers to as “rogue states” in projecting its power globally.\textsuperscript{129} Perhaps the best example of this power projection lies in U.S. influence over Southeast Asia following the September 11, 2001 terror attacks.\textsuperscript{130}

The U.S. employed its almost limitless War on Terror to act as a hegemon in Southeast Asia in a few ways. First, just as it did so elsewhere, the U.S. pushed hard for support from nations in Southeast Asia in carrying out its anti-terror operations in Afghanistan and Iraq.\textsuperscript{131} By not having a static definition of “terror,” the U.S. arguably made it apparent to the nations it approached that failure to cooperate could mean the risk of being labeled “terrorist,” and then being targeted as such. Additionally, the invocation of the word “terror” also led to an exertion of “hard power” hegemony by the U.S. in Asia, as the

\url{http://www.globalsecurity.org/org/news/2006/060302-rumsfeld-speech.htm} (note that “rumsfeld” is misspelled in the preceding URL).

\textsuperscript{129} MCDONALD, supra note 2.


\textsuperscript{131} MCDONALD, supra note 2.
U.S. increased its military presence there in order to contain and eradicate groups in the region that it deemed “terrorist.”\textsuperscript{132}

As submitted above, the lack of a definition of “terror” has given the U.S. much latitude in engaging in the practice of labeling certain groups as terrorist according to its strategic needs.\textsuperscript{133} Finally, the U.S. used that same tactic to take the lead as a “soft power” hegemon in eliciting the cooperation of ASEAN member states in rooting out terrorist organizations in Southeast Asia.\textsuperscript{134} There is no reason to believe that the coalition-building initiatives discussed by the coming Obama Administration will not use the word “terror” to garner support for, e.g. operations in Afghanistan, in like fashion.\textsuperscript{135}

The absence of a static U.S. definition of “terror” is the key vehicle for the U.S. to employ the politics of fear in its War on Terror. There are a few critical reasons why this is true. First of all, people often exhibit an innate fear of the unknown.\textsuperscript{136} Without a definitive, concrete archetype

\textsuperscript{132} Id.

\textsuperscript{133} See section analyzing the U.S. Patriot Act, supra.

\textsuperscript{134} MCDONALD, supra note 2.

\textsuperscript{135} See Rivkin, Jr. & Korb, supra note 21.

\textsuperscript{136} Alvin G. Burstein, Ethnic Violence and the Narcissism of Minor Differences, http://www2.selu.edu/Academics/Faculty/aburstein/musings/svhepap.htm.
establishing what constitutes a terrorist act and what does not, there is a certain mystery created around the terrorist. The construction of the terrorist as the unknown other provides an incentive for countries to jump on the U.S.’s bandwagon against terrorism, as it gives them an opportunity to define themselves as coherent and righteous versus the incoherent, immoral terrorist other. The U.S. employed the same tactic during the Cold War, as it characterized the Soviet Union as an “evil empire” and invited other countries to support it in a system of alliances pitting the capitalist, morally-upright, free world against the idea of communism. This approach was effective in terms of establishing a sphere of influence during the Cold War and appears to be so in the context of the War on Terror, as evidenced by the quickness with which the international community allowed UN Security Council Resolution 1373 to pass.

Also catering to the innate human fear of the unknown is the Bush Administration’s language regarding terrorism. Generally, Bush Administration rhetoric has placed “terrorism” in a very specific geographic and ideological setting – one that is different from what its audience is used to. Most speeches regarding the very general War on Terror seem to focus only on purported terrorist acts that are undertaken by groups

\[137\] MCDONALD, supra note 2.
originating in the Middle East and practicing the Muslim faith. In one speech to the UN, Bush claimed, “we’re up against an evildoer the likes of whom we’ve never seen.” In that short sentence referencing Al Qaeda leader Osama Bin Laden, Bush personified terrorism in the form of a Saudi-born Muslim.

While it is true that Osama Bin Laden claimed responsibility for the specific incident that brought Bush before the UN, he then chose, as the U.S. continues to choose, to address the problem of terrorism almost solely as it relates to the Middle East. Absent from the Bush Administration’s invocation of the word “terror” is any reference to such current crises as that taking place in Sudan – a series of events that

138 Burstein, supra note 133.
139 Id.
140 The current situation in the Darfur region of Sudan involves a state-sponsored militia known as the Janjaweed who have been known to terrorize Sudanese citizens in a systematic (and likely genocidal) manner by employing such tactics as large-scale homicide, rape, and kidnapping. As to the Sudanese government, such events, as they target innocent civilians, fit almost every definition of “terror” that presupposes the existence of state-sponsored terrorism. As to the Janjaweed militia themselves, their acts probably meet the elements of most every definition of terror that has been put forth. (See the five common elements of terrorism above).
fits almost every definition of “terrorism” discussed above. It may simply be a coincidence that the Middle East is a region of great strategic value to the U.S., but it is more probable that a lack of a clear definition of “terror” has allowed the U.S. to invoke the word only when it serves a strategic benefit. The same could be said of U.S. policy during the Cold War, as ideology defined the U.S.’s alliances then in quite the same way it does today. For example, there was probably no reason for the United States to provide Turkey with military and economic support after World War II other than to draw lines in the sand distinguishing communist territory from Western territory. That is especially true when one considers that Turkey is a historically repressive country with ideals very different than those espoused by the U.S.

141 The U.S. has a tremendous interest in stabilizing the Middle East, as it relies on that region for most of its energy supply. U.S. thirst for oil will keep driving Middle East conflicts, JAKARTA POST, Nov. 22, 2006, http://www.almotamar.net/en/1601.htm.

142 Haass, supra note 122.

143 Kraske, supra note 119.

Furthermore, the invocation of the word “evil” in Bush’s speech mirrors the rhetoric of Ronald Reagan in terming the Soviet Union an “evil empire” and thus equating the word “communism” with a geography and an ideology representing evil a la the unknown.\textsuperscript{145} In fact, the Bush Administration has, on numerous occasions, catered to the fear of the unknown by generally characterizing terrorists as a group of people that has a system of values fundamentally different from that of the civilized West.\textsuperscript{146} Such rhetoric bears a striking resemblance to that employed by U.S. policymakers regarding communism at the height of the Cold War, as such rhetoric also focused heavily on an unknown geography (the U.S.S.R. and its sphere of influence) and ideology (communism).\textsuperscript{147}

In quite the same manner, the Bush Administration’s rhetoric of “you are either with us, or with the terrorists” has


drawn a line between two ideological spaces – that occupied by the “good guys” and that occupied by the terrorists. Without providing a definition of “terrorism,” the “with us or against us” rhetoric sends a message to the rest of the world that no one is safe – the U.S. is free to assert itself against any nation it deems “terrorist.” Therefore, a lack of a static U.S. definition of terror has allowed the U.S. to act as a hegemon in using fear to influence the rest of the world to appease it and to “gang up” on whomever it decides to call a “terrorist.” In that regard, the lack of a formal U.S. definition of “terror” has strengthened U.S. influence by allowing the U.S. to pick and choose individuals, groups, and countries to target as “terrorist.” When most people think of terrorists, they do not think of the patriots who staged the Boston Tea Party, or members of Greenpeace who destroy property in the name of environmentalism, even though both groups could conceivably fit a number of the definitions of “terror” proffered by the U.S.


149 See id.

150 Greidner, supra note 3.
think of people like Timothy McVeigh\textsuperscript{151} or the Unabomber\textsuperscript{152} when
the word “terrorism” is uttered. Instead, “terrorism” has come
to be associated with Muslim fundamentalists – mostly from
countries in the Middle East.\textsuperscript{153} Such is the case because the
idea of who is a “terrorist,” absent a formal government
definition, is left to the policy actions of the U.S.

Another parallel between U.S. Cold War rhetoric and U.S.
rhetoric regarding terrorism is seen in an interesting
phenomenon whereby words are given new meaning in order to
justify U.S. policy. While the concept of popular election of
leaders is not a fundamental element of the definition of either
“communism” or “terrorism,” in both the Cold War and the War on
Terror, the spread of democracy has been invoked as a
legitimizing cause for power projection.\textsuperscript{154} During the Cold War,

\textsuperscript{151} Timothy McVeigh was convicted and executed for his role in the
April 19, 1995 bombing of the Alfred P. Murrah Federal Building in
Oklahoma City, Oklahoma.

\textsuperscript{152} Theodore Kaczynski, also known as the Unabomber, was convicted of
sending bombs through the mail to several universities and airlines
between the 1970’s and 1990’s.

\textsuperscript{153} Marina Jiménez, For Muslims, guilt by association, Sept. 10, 2006,
http://www.stopracialprofiling.ca/2006/09/10/for-muslims-guilt-by-
association/.

\textsuperscript{154} MCDONALD, supra note 2.
communism was equated with a lack of freedom, to the point where the capitalist West began to refer to itself as “the free world.” However, there are many instances of dictatorial regimes being supported by the U.S. in its large-scale campaign to contain the Soviet Union and stop the spread of communism. This hypocritical policy persists in the War on Terror, as the U.S. has been able to garner support by propagating the unsubstantiated claim that democracy and terrorism are necessarily inconsistent concepts. The fact that the Boston Tea Party, an act that has come to symbolize democratic ideals, could conceivably be regarded as a terrorist act, is proof enough of the limitless leeway the U.S. has been afforded in its use of the word “terror” to conduct its foreign policy. Without a static definition of “terror,” there is no check on how far

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156 During the Cold War era, the U.S. lent support, either economically, militarily, or otherwise, to the regimes Songkhram, Suharto, Marcos, Mobutu, Diem, Duvalier, Trujillo, Somoza, and others. Edward S. Herman, Antiterrorism as a Cover for Terrorism, http://www.zmag.org/hermancover.htm.

157 Id.
the U.S. can go in invoking that word in order to project its power.

As a final comparison between the War on Terror and the Cold War, both involve the U.S. capitalizing on the fear of a threat to its “way of life” in order to justify affirmative acts of power projection.\textsuperscript{158} When the U.S. constructed communism as an existential threat to the very fabric of American life, it created a powerful argument justifying affirmative hegemonic acts in the name of survival.\textsuperscript{159} This “murky” threat instantly became the legitimizing force behind military power projection and the use of “all elements of national power to defeat the enemy.”\textsuperscript{160} In his 2001 State of the Union Address, President Bush wasted no time in describing global terrorism as directly targeting “[America’s] way of life.”\textsuperscript{161} After distinguishing the democratic U.S. from terrorist leaders who are “self-appointed,” the President went on to isolate his idea of the specific


\textsuperscript{159} \textit{Id.}

\textsuperscript{160} \textit{Id.} (quoting former U.S. Secretary of Defense Donald Rumsfeld).

motives groups have for launching terror attacks against the U.S.\textsuperscript{162} He described these motives as a hatred of “our freedoms — our freedom of religion, our freedom of speech, our freedom to vote and assemble and disagree with each other.”\textsuperscript{163} Even former U.S. Secretary of Defense Donald Rumsfeld has drawn explicit comparisons between the Cold War and the War on Terror in their respective dealing with an existential threat.\textsuperscript{164} However, since terrorism, unlike communism, is a set of tactics and not an ideology, such a characterization of terrorism is possible only because the U.S. has been evasive in providing a static definition of “terror.”\textsuperscript{165}

In summary, an examination of U.S. rhetoric during the Cold War provides useful insight into the ways in which U.S. rhetoric regarding terrorism has been exploited as a vehicle for maintaining U.S. hegemony. Because of its ability to shape conceptions of truth and cater to human emotions such as fear, language can be an effective tool in a nation’s quest to project power. Specifically, because the U.S. has (perhaps strategically) failed to provide a static definition for the word “terror,” it has been able to invoke that word to construct

\textsuperscript{162} \textit{Id.}

\textsuperscript{163} \textit{Id.}

\textsuperscript{164} Kraske, supra note 119.

\textsuperscript{165} \textit{Id.}
threats, to inspire fear, and to plot a particular strategic foreign policy course. It is thus submitted that not since the "red scare" rhetoric of the Cold War has a single word been able to affect such tremendous policy change in the world.

Having established that the lack of a definition of the word "terror" has allowed the U.S. to exploit it as a vehicle for hegemonic power projection, this Paper will conclude by inquiring whether in doing so, the U.S. has engaged in a sustainable enterprise. In terms of the U.S. being able to invoke the word "terror" to justify throwing its weight around in the international community, it appears as though the Bush Administration’s War on Terror strategy successfully preserved U.S. hegemony in some ways. However, this Paper will attempt to prove that the current approach is growing increasingly untenable and will force the incoming Obama Administration to plot a new foreign policy course with regard to terrorism.

As previously discussed, the U.S. has done many things to exploit the lack of a static definition of "terror." It is here that the dots should be connected to paint a picture of the mechanics of the U.S.'s hegemonic strategy regarding the use of the word "terror." The U.S. has taken a word traditionally used to describe a certain type of criminal act.\footnote{Tiefenbrun, supra note 13.} It has morphed...
the meaning of that word so as to cause it to connote an act of war. As such, the U.S. has applied its recently adopted policy of “preemption and preeminence,” sometimes referred to as “the Bush Doctrine,” so that it may invoke the word “terror” to justify preemptive exertions of its power in the world. But in invoking the word “terror,” the U.S. has proceeded carefully in only justifying actions that are in its strategic best interest. Since it is in the best interest of the U.S. to (1) not be bound to act when it does not want to, and (2) to choose to act when strategically beneficial, the U.S. has benefited from not having a static definition of “terror” because the status quo usage of the word provides it with the flexibility to act only when it chooses to.

While the foregoing process demonstrates how the U.S. has been able to apply the word “terror” to instances of its choosing, it does not explain how the U.S. has been able to act hegemonically in persuading the rest of the world to follow suit. That capability stems from the word “terror” itself and

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167 Id.
168 MCDONALD, supra note 2.
169 Id.
170 Tiefenbrun, supra note 13.
171 MCDONALD, supra note 2.
the way it has been molded into a tool of power projection.\textsuperscript{172} The rhetoric of the U.S. regarding terror has created an existential threat out of what is actually just a set of violent tactics.\textsuperscript{173} The mere invocation of that word has been able to set the international community in motion at the drop of a hat (or bomb), as evidenced by the quickness with which the U.S. has been able to use it in garnering the support of otherwise unfriendly countries.\textsuperscript{174} The U.S. has made it clear that the rest of the world faces a forced choice of either supporting the U.S. or being deemed a "terrorist" state.\textsuperscript{175} Fearful of the consequences of what the latter may entail, the U.S. has been able to coerce countries to allow for a U.S. military, economic, and intelligence presence within their borders.\textsuperscript{176}

Thus has evolved a predominant norm in U.S. foreign policy, centered on the quintessentially hegemonic behavior that stems from one undefined term. All seems well for the U.S. in this scenario as it may ostensibly do as it pleases as long as the issue is relevant to its wide-sweeping War on Terror. However,

\begin{itemize}
\item \textsuperscript{172} Id.
\item \textsuperscript{173} Id.
\item \textsuperscript{174} Id.
\item \textsuperscript{176} MCDONALD, supra note 2.
\end{itemize}
as time goes by and the shock of the September 11 attacks has subsided, the international community has become less and less sympathetic to the demands of the U.S. regarding terrorism.\textsuperscript{177} That fact is underscored by the decline of support for the Bush Administration’s policies domestically and the failure of the Republican Party to retain its control of the executive and legislative branches of the federal government. Perhaps the U.S. is unable to sustain this form of hegemony after all.

There was a time immediately following the September 11 terror attacks when the U.S. was able to capitalize on the sympathy of the rest of the world regarding the shocking blow that it had just been dealt.\textsuperscript{178} When the attacks were still fresh in the minds of people all over the world, it seemed as though the U.S. could garner support for almost any retaliatory measure it conjured up within the bounds of reason (and sometimes without).\textsuperscript{179} It is during this time that the U.S. was most able to embark on its practice of unilateralism in its response to terrorism.\textsuperscript{180} The rest of the world sat back and watched as the U.S. forewent the “New World Order” multilateral approach to security employed by President Bush, Sr., and

\textsuperscript{177} Id.
\textsuperscript{178} Id.
\textsuperscript{179} Id.
\textsuperscript{180} Id.
instead, invoked the right to self-defense under the UN Charter in invading Afghanistan.181 A few years later, the rest of the world did not give the U.S. as much room to exert itself, as many influential countries expressed resentment at the unilateral policies of the U.S. regarding its war in Iraq.182 As an attempt to quell hostilities and justify its presence there, the U.S. even invoked the word “terror” regarding Iraq, trying to establish some tie between Saddam Hussein’s regime and Al Qaeda.183 Partly because the deep sympathy the rest of the world expressed over September 11 had waned somewhat, the invocation of the word “terror” in this context was not the trump card it used to be.184 It is clear now that the rest of the world will expect an altogether different strategy from President-elect Obama, because “terror,” unlike the Visa card, is no longer accepted everywhere.

181 Id.


184 Id.
Apart from the weakening of what once seemed like an omnipotent trump card in the form of the word “terror,” the U.S. has also recently experienced resentment and backlash over the marginalizing effect of its unilateral policies.\(^\text{185}\) This effect is evidenced by the deterioration in relations between the U.S. and many countries of the world, but perhaps the best examples are found in an examination of U.S. relations with Southeast Asian countries between September 11, 2001 and the present day.\(^\text{186}\) To begin with, one of the most significant effects of the sympathy afforded the U.S. in the wake of September 11 was the building of stronger relations with China, Australia, and South Korea.\(^\text{187}\) As discussed above, cooperation between the ASEAN member states and the U.S. in seeking to root out terrorism in Southeast Asia was indicative of these stronger relations.\(^\text{188}\) However, as Southeast Asian countries quickly discovered that the U.S.’s main interest was to act unilaterally, they feared being marginalized and saw a threat in a renewed U.S. presence in the region.\(^\text{189}\) What should have been a stepping stone towards the formation of a new strategic

\(^\text{185}\) McDonald, supra note 2; Chomsky, supra note 179.

\(^\text{186}\) McDonald, supra note 2.

\(^\text{187}\) Id.

\(^\text{188}\) Id.

\(^\text{189}\) Id.
alliance between China and the United States ended up only moving the two superpowers farther apart.

The increased U.S. military presence in Southeast Asia post- September 11, coupled with U.S. policymakers’ talk of resurrecting a missile defense system, caused countries like China to grow suspicious of the large-scale U.S. War on Terror.\textsuperscript{190} The primary concern for China, arguably the strongest power in the region, was that the U.S.’s invocation of the word “terror” was no more than a ploy to pursue a more aggressive containment policy against it.\textsuperscript{191} Whether or not China’s fears had any basis in truth is irrelevant. The crucial fact of the matter is that China perceives U.S. power projection through the vehicle of terrorism rhetoric as a direct threat. A dangerous, albeit very possible implication of that threat could manifest itself in the form of an aggressive hard-line response, whereby countries like China assert themselves against the U.S.\textsuperscript{192} The only logical alternative for the incoming Obama Administration is thus to abandon the current policy of “with us or against us” and pursue a foreign policy based on dialogue and cooperation.

Another indication of the unsustainability of U.S. rhetoric and policy regarding terrorism is its marginalizing effect on

\textsuperscript{190} \textit{Id.}

\textsuperscript{191} \textit{Id.}

\textsuperscript{192} \textit{Id.}
countries that traditionally have problems with groups that have been or could be termed “terrorist.” Such countries are forced to deal with the delicate issue of whether to appease the U.S. in its call for cooperation against terrorism when in doing so, they run the risk of internal backlash from dissident groups. For example, U.S. terror rhetoric placing the focus of the War on Terror on Islamic fundamentalism has posed significant problems for countries such as Indonesia and Malaysia. Both Indonesia and Malaysia have substantial Muslim populations that oppose U.S. interventionism in Afghanistan and elsewhere in the name of the War on Terror. Because Southeast Asia is such an important region in the context of the global economy, the risk posed by creating internal strife in such countries as Indonesia and Malaysia is one that must be taken seriously. If the U.S. continues down its current path, it could find that it has created a new source of regional

193 Id.
194 Id.; ASH, supra note 18.
195 MCDONALD, supra note 2.
196 Id.
instability in Southeast Asia, which could spell disaster for an already deteriorating global economy.\textsuperscript{198}

Finally, the exceptionalism and hypocrisy inherent in the U.S.'s use of the word "terror" as a vehicle for hegemony is another reason why its current policy regarding terrorism will fail. As most of this Paper argues, the flexibility and ambiguity stemming from there being no static definition of "terror" has bolstered U.S. hegemony in various ways. However, the U.S. may have gone too far in using the power it has derived from that flexibility. As the interplay between security and human rights has gained notoriety in the wake of the scandals surrounding Guantanamo Bay,\textsuperscript{199} Abu Ghraib,\textsuperscript{200} and the practice of

\textsuperscript{198} See id.

\textsuperscript{199} Guantanamo Bay is a U.S. base located on the island of Cuba, where detainees captured in the War on Terror have been taken for interrogation. Recently, allegations have surfaced regarding human rights violations at Guantanamo Bay. The U.S. government has tried to justify such actions on the grounds that they are essential to its national security. \textit{U.S.: Don't Resurrect Discredited Guantanamo Tribunals}, Human Rights News, Jul. 28, 2006, http://hrw.org/english/docs/2006/07/28/usdom13878.htm.

\textsuperscript{200} Abu Ghraib is a prison operated by U.S. forces in Iraq, wherein it was uncovered that U.S. prison guards used inhumane and torturous techniques in holding Iraqi prisoners. Michael Hirsh & John Barry,
extraordinary rendition,\textsuperscript{201} the international community has become increasingly wary of U.S. invocation of the word “terror” to do as it pleases.\textsuperscript{202} We have already seen a decrease in U.S. credibility abroad due to alleged human rights abuses in the name of combating terror.\textsuperscript{203} If the U.S. continues to exert the power it has derived from the War on Terror in such a manner, it could very well back itself into a corner that will entirely curb its ability to influence global politics.

In closing, the way the U.S. has handled itself regarding its War on Terror is a textbook example of hegemonic behavior. The U.S., and specifically the Bush Administration, has exploited the lack of a formal, static definition of the word

\begin{itemize}
\item \textsuperscript{201} Currently under investigation, it is alleged that the U.S. has engaged in the practice of extraordinary rendition, whereby it sends detainees captured in the War on Terror to prisons in countries where it may use torturous and inhumane interrogation techniques without (arguably) violating U.S. laws. \textit{Fact Sheet: Extraordinary Rendition}, ACLU, Dec. 6, 2005, http://www.aclu.org/safefree/extraordinaryrendition/22203res20051206.html.
\item \textsuperscript{202} McDONALD, supra note 2.
\item \textsuperscript{203} Id.
\end{itemize}
“terror” to undertake in projecting its power where and when it sees fit. In the Gramscian sense, the influence the U.S. has been able to exert in this way is indicative of its status as a global hegemon.204 From the quickness with which the U.S. has been able to use the word “terror” to command international policy action, to the limitless scope to which it has been able to apply the word “terror,” to the friends it has been able to protect and enemies it has been able to target, its use of the word “terror” has certainly proven to be a valuable instrumentality in its toolbox of hegemonic power projection techniques. However, the U.S. must be careful to not overstep its bounds in the use of such power. As submitted above, the Bush Administration in particular has been less than reserved in invoking the word “terror” to assert itself internationally. In doing so, the Bush Administration may have used up a “one-trick pony” and left President-elect Barack Obama no choice but to abandon unilateral anti-terror policies.

As the international community becomes increasingly apprehensive of such practices, it would probably be in the best interest of the U.S. to join the UN in its quest for establishing a static, internationally recognized definition of

204 Id.
“terror.”205 In doing so, the U.S. would probably be able to exert substantial influence in persuading the UN to adopt a definition to its liking, while at the same time eliminating some of the suspicion of U.S. policies coming from the almost limitless flexibility it is currently afforded. Only time will tell how this scenario will play out, but the status quo policy of “staying the course” is simply not sustainable.

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