When the first suspects were captured in the war on terrorism in Afghanistan in 2001, new policies were needed to deal with them. The Bush administration has consistently argued that suspected terrorists and what it calls “enemy combatants” do not deserve the protections afforded to prisoners of war under the Geneva conventions. The original conventions, established in 1864 and expanded in 1949, had a singular vision of war in mind, one fought primarily by the regular armies of established states, reflecting the nature of conflict that had evolved in Europe from the Napoleonic wars to World War II. Yet, such wars are clearly the exception today. Bush administration officials assert that the nature of the terrorist threat has created a new kind of war, to which the Geneva conventions do not apply and which, in some respects, renders them obsolete. The initial controversy generated by these arguments exploded when allegations of abuse surfaced at Abu Ghraib prison in Iraq and at Guantanamo Bay, Cuba, where many of the Afghan detainees were being held.

Such controversies overlook a larger uncertainty about the utility of the Geneva conventions, given the changing nature of wars and those who participate in them. Today’s terrorist threat is but one form of war among many that appear to fall outside the conventions’ guidelines. Wars today bear little resemblance to the battles between more or less evenly matched armies of uniformed soldiers from opposing states for which the Geneva conventions were devised. Instead, they range from wildly unbalanced conflicts pitting highly trained and technologically sophisticated armies, such as that of the United States, against irregular combatants on horseback to conflicts in which paramilitaries and criminals intermingle and terrorize local popula-
tions. Moreover, today’s wars are often fought by warlords, mercenaries, and children against the backdrop of failed states. The Geneva conventions do not correspond to today’s conflicts, but they should be modernized to account for modern wars and modern warriors, not ignored.

The New Nature of War

New forms of warfare are perhaps better understood as a reversion to very old wars. One parallel may be the pervasive warfare of early modern Europe, such as the Thirty Years War (1618–1648), which involved most European powers and combined war and plunder with little distinction made between civilian and soldier. Many modern conflicts share this link between economic gain, criminality, and warfare. Indeed, the British scholar Mary Kaldor termed the Balkan wars of the 1990s “new” wars because of the dual criminal and political goals of its main protagonists, as war-fighting groups and organized crime collaborated. Economic exploitation combined with efforts to perpetuate conflicts by groups seeking to enrich themselves was also a feature of wars in Sierra Leone and Liberia in the 1990s, among other places. Not only do these conflicts create opportunities for paramilitary leaders to acquire black market fortunes, but fighters often terrorize civilians to achieve their ends. Wars have long been financed and outfitted by a range of entrepreneurs and military contractors, often with unsavory reputations.

Another parallel can be seen in the disparities in capabilities between European military forces and those of the countries they colonized in Asia and Africa during the nineteenth century, as well as in the disparities between states and nonstate groups in the guerrilla conflicts of the 1970s and 1980s in places such as Vietnam, Namibia, and Peru. This is the type of war in which the United States is most likely to find itself today. The downside of the U.S. military’s overwhelming dominance on the battlefield is that its opponents have little choice but to resort to guerrilla tactics and urban warfare. Terrorist tactics may become more widespread, as demonstrated by the Iraqi insurgency’s campaign against U.S. troops since 2003. Al Qaeda’s innovative use of military and nonmilitary means takes this one step further by turning civilian objects such as airplanes into bombs, with catastrophic effects.

The end of Cold War constraints also fueled or reinvigorated civil wars in places such as Angola and Yugoslavia. The spark was often the removal of external support for a leader with fragile domestic legitimacy and a newfound freedom to act among opposition groups. Ethnic grievances have also fueled civil conflicts in countries ranging from Sri Lanka to Russia (Chechnya), feeding the impression that these were chronic, insoluble struggles not subject to rational resolution.
Finally, failed states have also become breeding grounds for conflict. Failed states stand in stark contrast to the traditional state model; the physical shell of the state remains, but the power structure has broken down. These states are subject to pervasive and intense violence that occurs at multiple levels: regime against society, rebels against regime, and criminals against all. The state has few functioning institutions, typically only the executive branch, which mainly serves the ruler’s ends and not the needs of the population. Collapsed states, in which there is almost a complete vacuum of political authority, are the most extreme form of failing states.

The key point about current conflicts is that they represent a present and future form of war far removed from the archetype for which the Geneva conventions were designed. The European model of war involving state armies meeting on a battlefield is a rarity today. The Iran-Iraq War in the 1980s may have been the last of its kind. The problem with modern wars is not an absence of legal guidelines protecting those caught up in conflicts, but rather that these guidelines are not respected by its participants, either nonstate actors, including guerrilla warriors and groups exploiting children, or states fighting those actors.

Current conflicts are far removed from the wars envisioned by the Geneva conventions.

New Warriors Emerge

The actors involved in today’s wars vary widely, as the neat distinctions between soldiers and civilians have eroded. The combatants in modern wars also include warlords, mercenaries, and children.

Warlords

Warlords are often to blame for state failure, but paradoxically they may provide what little authority exists in collapsed and failed states. Mobutu Sese Seko epitomizes the model of a ruler who enriched himself while destroying the state. During his 32-year rule, despite its immense natural resource wealth, Zaire’s (now the Democratic Republic of the Congo) infrastructure collapsed and the population grew increasingly impoverished. Afghanistan is the classic example of a failed state in which multiple warlords compete for power. Both before and after the Taliban took control of Kabul in 1996, local and regional warlords vied for authority over much of the country. One
consequence was that, before 2001, Afghanistan was the regional hub and transit point of a criminalized war economy, serving the needs of armed groups in several neighboring states. This situation persists in spite of the Taliban’s overthrow; today, regional warlords sustain their rule through the hugely profitable opium trade. Although Afghan president Hamid Karzai has sought to challenge or co-opt the warlords, his control over the country does not extend much beyond Kabul. The warlords’ continued strength and desire to solidify their power was evident in Afghanistan’s October 2005 parliamentary elections. About 200 warlords ran for office or put forward proxy candidates. Roughly half of the winning candidates are suspected to have ties to various armed groups, and several prominent warlords themselves won seats.

The lawlessness of such territories, as well as the warlords’ self-interested pursuit of wealth, make these states attractive to terrorists as havens from international law. Former Liberian president Charles Taylor, for example, was willing to shelter terrorists in the 1990s, including high-level Al Qaeda operatives, in return for financial compensation. Al Qaeda exploited Liberia’s diamond market to convert financial resources into untraceable assets.

Warlords do not fit neatly within the framework of the Geneva conventions. The local militias they command are unlikely to meet the conventions’ definition of armed groups entitled to protection as prisoners of war. Moreover, their willingness to prey on their own populations puts warlords’ actions at odds with the basic protections the conventions guarantee to civilians in conflict zones.

**Mercenaries**

Mercenaries have also reemerged in modern wars. “Soldiers of fortune” willing to fight in any conflict if the price is right are active in a wide range of conflicts today. They have been joined by private military companies offering a range of services to governments and individuals. Perhaps the most notorious is Executive Outcomes (EO), a now-defunct company established by former South African military officers in 1989 and disbanded in 1999. EO gained attention in the 1990s for its work for the governments of Angola and Sierra Leone. During 1993–1996, 500 EO employees protected oil fields and trained soldiers for the Angolan army. In Sierra Leone in 1995, EO helped the army defend the capital city against rebel attack. Yet, private military companies today encompass a broader range of corporations and functions, such as the United Kingdom’s Sandline International and the Virginia-based Military Professional Resources Inc. (MPRI), that offer training, equipment, and infrastructure support to militaries around the globe.
Reliance on private military firms is not merely a phenomenon in the developing world. Training by MPRI helped the Croatians defeat Bosnian Serb forces in a summer 1995 offensive, which in turn helped bring the Serbs to the negotiating table at Dayton. Even the United States relies heavily on private military contractors. For the Department of Defense, this is a way to free military forces for combat-related tasks and to bypass congressionally mandated limits on how many military personnel it can deploy to certain regions. In Colombia, for example, U.S. soldiers and private contractors work together to analyze intelligence, conduct surveillance, and train Colombian troops in counterguerrilla operations. The line between these groups can be quite blurry. Corporations supply pilots for planes tasked with spraying coca fields as part of the war on drugs, but they are paid by the U.S. Department of State and the Pentagon. The use of contractors is even more widespread in Iraq, where private contractors such as Kellogg, Brown and Root do everything from running mess halls to flying planes. Contractors also provide key support for weapons systems, including maintaining and reloading weapons during combat operations. Reliance on contractors is also not limited to governments. Virtually all parties in the conflict in Colombia, including rebels, drug traffickers, and landowners, are believed to have relied on various private military firms.

The upsurge in reliance on military contractors raises the issue of their protection under the Geneva conventions. The conventions’ protections for civilian contractors supporting military operations have proven problematic in practice because contractors may fall through the cracks in terms of legal jurisdiction. Three U.S. contractors conducting a surveillance mission in Colombia, for example, were taken hostage in late 2003 and remain in captivity. The guerrillas consider them prisoners of war, but Washington refers to them simply as U.S. citizens. Private contractors have also been killed and captured by insurgents in Iraq.

Equally problematic, upholding the Geneva conventions is not mandatory for private contractors as it is for soldiers, and contractors are not subject to military justice. Although the Coalition Provisional Authority established by the United States in Iraq in 2003 determined that contractors were subject to the laws of their home country, it has proven difficult to hold them accountable for their actions. The Military Extraterritorial Jurisdiction Act (MEJA) passed in 2000 gives the Defense Department the authority to prosecute civilian employees for crimes committed overseas and
tasks the secretary of defense with initiating prosecutions against contractors. Yet, this law only took effect in September 2004 and has yet to be tested. Moreover, until late 2004, the MEJA applied only to Defense Department employees and thus would not have applied, for example, to private contractors hired by the CIA implicated in the abuse scandal at Abu Ghraib (many of the interrogators were employees of CACI International and the Titan Corp., U.S.-based defense contractors that specialize in information and intelligence). It is left up to the contractor to deal with employees accused of crimes. To date, none of these contractors has been prosecuted. Iraq is not the only place where military contractors hired by the United States and the United Nations have apparently violated the Geneva conventions. Some DynCorp personnel, hired to train police forces in Bosnia, acknowledged owning women and girls as young as 14. DynCorp executives insist that these employees were fired, but there is no evidence that they were held legally accountable.

**CHILD SOLDIERS**

Children also have become combatants in conflicts around the world with increasing regularity. The chaos and lawlessness that results from failed states, civil wars, and disasters or disease creates a larger pool of available young recruits. Indeed, Tamil rebels in Sri Lanka sought potential recruits in refugee camps after the December 2004 tsunami devastated the region. Warlords and other insurgent leaders often see children as cheap and expendable foot soldiers. Children often do not understand the risks they face and, particularly if brutalized, as most child soldiers have been, are obedient and will carry out very dangerous tasks, including suicide missions. Most new wars are fought with small arms and light weapons, facilitating the use of child soldiers because such weapons are light enough for children to carry and simple enough for them to learn to use.

Children are now involved as fighters in almost all of the conflicts where U.S. troops are deployed. Many of the children currently in combat are under 18, the age internationally accepted in the Convention on the Rights of the Child as the line between children and adults, but some are younger than 15 or even 13. Child soldiers are almost as likely to be girls as boys. Terrorists rely on children as well to carry out missions. As a consequence, U.S. and other Western troops face the challenge of learning how to fight in conflicts where they may face children with guns.
Children have full protection as noncombatants under the Geneva conventions. Despite their role as aggressors, child soldiers must nonetheless be considered victims in these conflicts. Children cannot “choose” to fight in the way that adults do because they cannot understand the dangers or consequences of their actions. Too often they are not given a choice but rather are drugged or abducted and forced to fight. The Lords Resistance Army in Uganda, for example, abducted more than 14,000 children over roughly a 10-year period. The majority of girls who are abducted into conflicts are raped and often are given to commanders as sexual slaves. Children may also join rebel groups in order to survive because they are starving or their parents have been killed. By signing the Convention on the Rights of the Child, states agreed to try to keep children under 15 out of hostilities and not to recruit them. The UN General Assembly adopted an Optional Protocol to this convention in May 2000, urging states to raise the minimum age for recruitment to 18 and explicitly prohibiting the use of children under 18 by nonstate armed groups. Despite being a signatory to the Optional Protocol, the United States is currently holding juveniles at Abu Ghraib. In fact, one of the victims in the abuse scandals was in his mid-teens. Several children between the ages of 13 and 16 were apparently incarcerated at Guantanamo Bay in 2003.

**Revisiting the Geneva Conventions**

The Bush administration argued in early 2002 that the Geneva conventions’ protections did not apply to prisoners in the war on terrorism for two reasons: Al Qaeda is a nonstate actor and therefore cannot be party to an international agreement, and the conventions’ provisions addressing internal armed conflicts that involve nonstate groups, such as the 1977 Additional Protocols, do not apply to the war on terrorism. The administration also initially argued that the Geneva conventions did not apply to members of the Taliban government of Afghanistan because Afghanistan was a failed state, but it chose to apply the conventions to the Taliban shortly thereafter.

With its new variants and actors, the problem of modern war has become broader than the Bush administration’s focus on terrorism, demanding a more comprehensive approach. To ensure the cooperation that it needs to pursue terrorists and regain the moral high ground, the United States should lead the way, as then–White House counsel Alberto Gonzales suggested in his nomination hearings to become attorney general, in revisiting the Geneva conventions. As Gonzales acknowledged, the Geneva conventions’ basic principles regarding “decent treatment of human beings” remain unquestioned, and they should serve as a baseline for creating a wider framework relevant to the full spectrum of conflict.
The United States benefits from upholding the Geneva conventions in terms of precedent, pragmatism, and principle. Through sustaining precedent, the Geneva conventions protect U.S. soldiers and civilians. Tolerating gray areas with regard to protection and human dignity, for example, through the Bush administration’s judgments about the Geneva conventions and interrogation techniques, creates an environment in which others can do the same. By upholding the conventions, however, Washington can argue that those who harm U.S. soldiers or citizens abroad should be arrested and prosecuted. Without this precedent, other states are less likely to accord U.S. soldiers and military contractors the protections that the conventions provide in the case of capture. Senior military commanders underscored this point throughout 2002 in contesting the administration’s decision to suspend the conventions. Washington should thus ensure that U.S. soldiers and the civilians it employs adhere to the Geneva conventions and other laws of war, sustaining their precedent.

There are also pragmatic reasons for revisiting the Geneva conventions to help the United States win the war on terrorism. Serious questions have been raised about the intelligence benefits of “coercive interrogation,” or torture. The official claim that there were clear links between Iraq and Al Qaeda, a central argument in the administration’s case for war against Iraq in 2003, apparently rested on testimony given and later recanted during torture, illustrating the dangers of relying on harsh interrogation tactics. In addition, defeating terrorists or insurgents who use terrorist tactics requires gaining the support and trust of local populations. A central problem in many areas is the difficulty of distinguishing soldiers from civilians. From the U.S. perspective, this problem is most acute when trying to locate terrorists before they act. Because local cooperation is vital to identifying terrorists, the United States and its allies must do what they can to gain this support. The United States should certainly establish a stable, secure environment for the communities in which terrorists seek to hide, including chronic war zones and failed states. Only then will residents help identify potential troublemakers. Yet, this demands scrupulous efforts to adhere to the rule of law, as well as to minimize the use of force. The Geneva conventions provide guidelines for the behavior of occupying powers that can reinforce domestic laws or stand in for them where no laws exist.

The Geneva conventions recognize that some of those engaged in combat are not entitled to prisoner of war status, generally referred to as “unlawful
combatants,” although this phrase does not actually appear in the conventions. Such combatants are subject to prosecution under the conventions for their unlawful acts. Furthermore, deliberately targeting civilians is a war crime under international law, which provides ample justification for terrorists’ incarceration and prosecution. Strengthening the Geneva conventions will thus enhance U.S. efforts to fight terrorism. Terrorist groups such as Al Qaeda have repeatedly violated the conventions by targeting civilians. Although stronger U.S. support for the conventions will not change this, it will reinforce the stark differences between the United States and Al Qaeda.

A final argument for updating the conventions is based on principle. The victims of today’s new wars deserve the basic protections afforded by the Geneva conventions and other international laws. This is the underlying logic of the conventions, yet as Sen. John McCain (R-Ariz.) has stressed, it is also part of “who we are” as Americans. Even this principled argument is draped in pragmatism: U.S. security depends on demonstrating that it cares about the suffering of others and not just its own interests. Upholding international standards is one way to achieve this.

The United States has sought to define itself in foreign policy by the promotion of liberal values, including respect for human rights and basic human dignity—the core elements of the conventions. President George W. Bush insists that “America will always stand firm for the non-negotiable demands of human dignity, the rule of law, limits on the power of the state, respect for women, private property, free speech, equal justice, and religious tolerance.” Unless these declarations are backed up by practice, however, they will only engender cynicism and resistance. The Bush administration’s efforts to promote the spread of democracy in the Middle East and elsewhere would be enhanced by adhering to the conventions. If applied consistently, it would weaken criticisms about the double standards in U.S. policies and help the United States overcome the impression that it cares only about the safety and security of its own citizens.

The United States should begin by ensuring that its own policies and actions promote decent treatment. It should then encourage the strengthening and extension, where necessary, of existing international guidelines for conflict.

**Domestic Policies**

Washington must first reinforce domestic and international laws protecting basic rights. In October 2005, the Senate passed McCain’s amendment to the 2006 defense appropriations bill, establishing the Army Field Manual as the standard guideline for interrogation practices for all Defense Department detainees and prohibiting “cruel, inhuman, and degrading treatment” of anyone in U.S. government custody, by a margin of 90-9. The strong sup-
port for the amendment indicated growing concern that U.S. prosecution of the war on terrorism is being damaged by the government’s apparent willingness to condone torture. McCain’s amendment is an important step, but further steps are needed to ensure that U.S. credibility is repaired, including removing gray areas with regard to the Geneva conventions.

In late 2004, the Defense Department retracted the more permissive guidelines for interrogation that were established in 2002. This too is a step in the right direction, as is the adoption of new Army guidelines for interrogation in April 2005 that are more explicit than previous guidelines about permitted and prohibited practices and which specifically bar many of the techniques used in Abu Ghraib. The president should affirm these policies and state clearly that the Geneva conventions apply to all combat situations and to all prisoners. In addition, the president and his subordinates should publicly reaffirm the national and international laws that prohibit torture and prisoner abuse. Secretary of State Condoleezza Rice issued the administration’s clearest statement regarding U.S. adherence to international laws proscribing torture in December 2005, stating that the United States considers its obligations under the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment to “extend to U.S. personnel wherever they are, whether they are in the United States or outside of the United States.” Questions remain, however, about how the administration defines torture, and as a result, U.S. adherence to national or international laws remains murky.

The White House does not appear likely to do more in the near term. The Bush administration fought hard to convince the House and Senate to exempt the CIA from McCain’s amendment regarding the treatment of prisoners, particularly those held overseas. Although the president signed McCain’s bill in December 2005, he issued a signing statement indicating the administration’s intention to interpret the law in accordance with the president’s authority as commander in chief. This has raised questions about whether the administration will honor the law. Debate continues within the administration over whether new Pentagon guidelines for the treatment of detainees should include language from the Geneva conventions. The Senate recently voted to limit the rights of detainees held at Guantanamo Bay to petition U.S. courts, a step not directly related to the Geneva conventions but that could raise questions about the right to due process that the conventions afford to those accused of crimes. Simply stating that the United States does not condone torture will not ameliorate the damage.

The U.S. should lead the way in revisiting the Geneva conventions.
caused by the events at Abu Ghraib as long as Washington fails to ensure legal accountability for this abuse and continues to demand exemptions to guidelines for treatment of prisoners and to the Geneva conventions.

Second, Washington should strengthen and, where necessary, modify its laws to ensure that U.S. civilians working for the government who are accused of committing abuses can be held legally accountable and to make clear to victims in other countries that the United States will enforce these laws. The MEJA is a good start, as is the act’s application to contractors employed by other federal agencies; now the military must use it. For the MEJA or similar laws to be effective, commanders in the field must have the authority and take the responsibility to ensure that civilian contractors suspected of violating laws are investigated or prosecuted. This will require clarifying jurisdiction when contractors are working overseas and following up on individual cases. Contractors cannot be allowed simply to send employees home if they are caught breaking laws, as has been the case in the past. If corporations obstruct efforts to investigate or prosecute their employees, they should be fined or made ineligible for future government contracts. These contractors are often the public face of the United States abroad. If they act like “ugly Americans” with impunity, they can destroy the U.S. government’s credibility.

**International Guidelines**

In addition to affirming the Geneva conventions through domestic policies, the United States should take the lead in strengthening a broader international framework that modernizes the conventions to address the full scope of new conflicts, while reinforcing the core values of the conventions. The United States and the international community should foster respect by all parties in all conflict zones for the laws of war. If populations see the United States and its allies working to ensure stability and the rule of law, they are more likely to cooperate against terrorists.

Such a policy has precedent, although it may be the exception. The international community has largely relied on international isolation and sanctions to press the point that violating basic rights places insurgent groups and governments outside the pale of international society. Regional organizations have an important role to play in this effort by fostering respect for basic rights, with some already seeking to promote good governance. The African Union (AU), for example, has established the African Peer Review Mechanism to monitor whether member states maintain what it considers appropriate standards regarding governance and the rule of law. The AU’s condemnation of the February 2005 coup that placed Faure Gnassingbé in power in Togo after his father’s death helped pressure the new government
into holding an election in April 2005. Although Gnassingbé still won, his victory came through elections rather than imposition. Similarly, pressure by the European Union on Serbia, which wants to join the EU, has led to an increase in arrests of suspected war criminals in the last year. The United States should encourage regional organizations to enforce similar standards with regard to the Geneva conventions.

The United States should also take the lead in developing international standards of behavior for contractors and in ensuring that its own contractors uphold them. Yet, private military firms must also be regulated globally to ensure that contractors and civilians are protected. One possibility is to establish a UN database that monitors private security firms’ professionalism and adherence to international laws, following the model of the UN register of conventional arms. Voluntary codes of conduct for private companies have also been proposed, and one has recently been established by the International Peace Operations Association. This is a two-way street: the Geneva conventions’ protections for civilian contractors working with militaries should be reinforced, but contractors must not be able to act with impunity overseas.

Prohibitions on the use of child soldiers must also be globally enforced. In 2003 the United States ratified the Optional Protocol to the Convention on the Rights of the Child, requiring states to take all possible measures to keep children from active participation in combat. Washington and its allies should do more to encourage its implementation. The United States could utilize the International Criminal Court (ICC) to this end. The ICC’s statute designates enlisting children under 15 in the military or using them in combat as a war crime. Although the United States has rejected the ICC, it recently accepted that it is an appropriate venue for prosecuting war crimes in Sudan, so long as prosecutions are requested by the UN Security Council. The United States could do the same with regard to child soldiers. Signaling its willingness in principle to allow ICC prosecutions would be one way to pressure armed groups to stop exploiting children. The United States could also put its financial resources to work by sanctioning companies or countries that support insurgents who exploit children.

Failed and failing states present another critical issue. Although it cannot resolve the problems facing all failed states, the United States should do more to engage the international community in seeking creative solutions to the security problems state failure engenders. Both supra- and substate options exist. Some recent proposals recommend establishing at least partial
international control over the territory of failed states through shared sovereignty or trusteeships. Alternatively, if a substate actor is providing the functions of government, even if its efforts cover only part of the territory of a failed state, the international community might choose to work with it as the de facto government. Respect for the Geneva conventions and other laws of war should be minimum criteria for supporting would-be rulers. These measures would enhance international security by helping to eliminate lawless territories and creating greater security for local populations.

Finally, the United States has taken the lead in developing new international means to combat terrorism through mechanisms such as the UN’s Counter Terrorism Committee, established in late 2001. The administration should build on this effort by supporting Kofi Annan’s efforts to create a comprehensive convention for preventing, controlling, and suppressing terrorism. Linking this to the Geneva conventions’ proscriptions on attacking civilians will underscore the criminal nature of terrorist acts and of the terrorists themselves. Establishing a convention on terrorism will also enable the United States to address some of the problems it sees in the Geneva conventions’ guidelines regarding prisoners of war without rejecting the conventions’ broader utility. Opinions differ on whether the laws of war or criminal law provides the best framework for fighting terrorism. The Bush administration might seek to shape a convention on terrorism that, for example, incorporates elements of each to help distinguish between terrorists and members of an armed group fighting a war. This would not deny terrorists the conventions’ basic protections, but it would enable the United States legally to incarcerate suspected terrorists as criminals, as other states fighting terrorist groups have done, rather than as prisoners of war.

Modernizing the Conventions

The Geneva conventions’ core protections to soldiers and civilians remain vital, but they do not address the continuum of conflicts that exist today. The Bush administration may be correct in asserting that the Geneva conventions in their present form cannot effectively serve their intended purpose. Yet, its solution, simply rejecting the utility of the conventions, is not the answer, nor should the solution focus solely on the terrorist threat. Instead, the United States and the international community should revitalize the conventions to take into account the full range of challenges posed by modern wars.

Washington should take the lead by reaffirming its commitment to the Geneva conventions and other international laws pertaining to war. Domestically, the United States should strengthen laws to ensure that all soldiers
and civilians working for the U.S. government will be held to these standards and punished if they fail to meet them. Internationally, Washington should lead efforts to strengthen the framework of protections and ensure their application to the full scope of conflicts. These protections should be based on the conventions’ core values of basic human dignity and security.

Revitalizing the conventions to cover a broader spectrum of wars is in the U.S. interest in terms both of pragmatism and principle and reestablishes a precedent that will provide the best protection for U.S. soldiers and civilians in conflict zones. Strengthening and broadening the application of the Geneva conventions will demonstrate to the world that Washington practices what it proclaims, which is vital to the effort to improve the U.S. international image and ensure it has the multilateral support it needs to combat terrorism.

Notes

Modernizing the Geneva Conventions


16. For the memos laying out the administration’s position and internal debates, see Karen J. Greenberg and Joshua L. Dratel, eds., The Torture Papers: The Road to Abu Ghraib (Cambridge, Mass.: Cambridge University Press, 2005).


18. Ibid.


