Giving Justice Its Due

George Perkovich

THE MISSING PRINCIPLE

With its ringing invocation of "the force of freedom," President George W. Bush's second inaugural address exemplified and updated the long-standing American belief that liberty is an intrinsic human good and that its promotion will enhance the nation's security and prosperity. Critics who scoffed at Bush's attempt to put ethics at the heart of U.S. foreign policy were misguided, because such considerations have been a crucial part of policy debates since the country's founding. What they should have criticized instead was Bush's narrow focus on one particular principle, political freedom, in isolation from other components of the American creed. After all, the Pledge of Allegiance promises not only liberty, but justice as well. Unfortunately, the elision of the notion of justice from the president's speech matches its elision from his foreign policy, with the result that in recent years, U.S. diplomacy—public and private—has been limping along on one leg and stumbling.

Much of the opposition the United States faces in the world today comes from either radical Islamists or from those who blame Washington for the unequal and destabilizing consequences of globalization. In their own ways, both groups fear that the freedom so loudly championed by the United States translates in practice into a license for the rich and the powerful to take advantage of the poor and the weak. They wage their anti-American campaigns in the name of justice.

Both movements are following in the footsteps of the United States' previous global foes, the communists, who based their legitimacy...
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HOW TO DRAIN THE SWAMP

Robert Pape, of the University of Chicago, has noted that modern suicide terrorist campaigns have been driven by seven contentious issues: the presence of U.S. and French forces in Lebanon, the Israeli occupation of the West Bank and Gaza, the Tamil quest for independence in Sri Lanka, the Kurdish quest for independence from Turkey, the Russian occupation of Chechnya, the Indian occupation of Kashmir, and the presence of U.S. forces on the Arabian Peninsula. Iraq can now be added to this list. In each case, the campaign has sought to compel an enemy to withdraw its forces from or drop its sovereign ambitions toward a specific territory on the premise that the occupation was fundamentally unjust. Pape and other analysts note that even though terrorists’ methods are seldom condoned, their goals are often widely supported by their nationalist brethren. One reason for this support is the perceived justness of the terrorists’ complaints and demands. In other words, the rhetoric of injustice and oppression resonates with the populations from which terrorists emerge and to which they appeal for support.

The war on terrorism must thus be fought on two fronts. The first is against the terrorists directly, who must be thwarted, captured, or killed. The second is related but broader, and involves persuading Muslim societies to reject those who call for a violent struggle against inaccurately defined enemies. President Bush believes that liberty is the key to both battles, and he has a point. But liberating Arab and other Muslim societies will only heighten the visibility of questions of justice. In Iraq, for example, liberation opened the way for the settling of old scores and the creation of new ones. Shiites hope to reverse the wrongs they suffered under Sunni dominance. Sunnis fear revenge and worry about protecting their rights under a new regime. Kurds want independence from Arabs. The poor know they will lose out to the rich, as always, and decry the slowness of economic recovery.

The northern city of Kirkuk offers the clearest illustration of the justice challenge in Iraq. Its population has always been unusually diverse, as befits a city at the crossroads of historical east-west and north-south trade routes. But under the dictatorship of the Baath Party, Arabization became the order of the day, and tens of thousands
of Arabs were moved into the region to displace Kurds and other ethnic minorities from their homes. Today, the Kurds in liberated Kirkuk seek to reconnect with Kurdistan, which gained autonomy and began to thrive under U.S. protection after the 1991 Gulf War. But there are Arabs, Turkmen, and others in Kirkuk who want something else, and everyone wants some control over the region’s oil.

Neither the U.S. occupation authority nor the provisional Iraqi government was prepared to establish a process for settling these disputes and determining who is entitled to what. Iraq’s interim constitution calls for redressing “the injustice caused by the previous regime’s practices in altering the demographic character of certain regions, including Kirkuk,” and offers vague suggestions about re-relocating people and compensating them for past and future displacements. But it says little about how such decisions would be legitimized, how sufficient resources for compensation would be mustered, or how new cycles of injustice and revenge would be avoided. And a single-minded focus on liberty provides no help in deciding how to allocate the region’s oil riches.

These problems are matters of distributive justice, which one hopes will eventually be addressed through fair processes established by the country’s new democratic political system. But the ideology of individualist, market freedom that has infused the occupation has left the United States dangerously unprepared to help in this task. Market thinking has so permeated the American consciousness, in fact, that serious debate over distributive justice or the state’s role in providing it no longer even occurs.

In November 2003, The Washington Post reported that then Deputy Secretary of Defense Paul Wolfowitz had had an epiphany during one of his trips abroad. Wolfowitz had heard Jamil Mroue, the editor and publisher of the Beirut Daily Star, argue that if the United States simply stressed security in Iraq, it would be no different than authoritarian regimes throughout the Arab world; the missing ingredient, Mroue claimed, was justice. Apparently impressed, Wolfowitz then addressed democracy advocates in the Iraqi town of Al Hillah not by speaking of freedom, but by volunteering, “To Americans, the most important thing about democracy is to guarantee human rights and justice for all.” Unfortunately, while Wolfowitz was expressing
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his appreciation for justice, U.S. forces were torturing Iraqi prisoners. Given its failure to hold higher-ups accountable for the abuses, today’s Pentagon would have a hard time convincing the world that justice is the value that animates it.

THE JUSTICE AUDIT

Part of the reason Muslims abroad hold U.S. foreign policy in low regard is because their cultures center on justice and they think America’s does not. Promoting justice and correcting injustice is the main mission the Koran enjoins for the followers of God. The cultural significance of justice can be seen in the names of political parties and civil-society organizations from Morocco to Indonesia. As the mufti of Egypt put it recently, “in authentic Muslim perceptions, justice structures all vital spheres of human existence. Justice is an absolute concept in Islamic teachings and precedes other central notions such as freedom and solidarity.” But opinion surveys show that whereas large majorities of Muslim populations think freedom is an American value, most do not think justice is. To improve its image, accordingly, Washington should audit the justness of the U.S. policies that are most objectionable to many Muslims and consider whether any improvements can be made.

The most important cause of Muslim anti-Americanism is Washington’s support for unjust governments in Muslim lands. President Bush has recognized this problem and committed the United States to making reform a priority. In practice, however, this will often conflict with the United States’ interest in maintaining stability or a strategic advantage in a given region—as the administration’s continued friendly relations with the Saudi, Egyptian, Pakistani, and Uzbek regimes demonstrate. Nevertheless, Washington should use its diplomatic, economic, and media resources to bolster local actors who genuinely favor democratic processes, even though current rulers will not like it. If and when democratic actors become strong enough to threaten the status quo in countries such as Pakistan or Egypt, the risk of major change will become an opportunity for creating new governments that will be more just and therefore more stable. Where democratic elements are insufficiently developed, as in, say, Uzbekistan,
the United States can do little more for now than press governments to protect the internationally recognized human rights of their citizens.

Another issue that stimulates outrage is the United States' emphatic and seemingly unquestioning support for Israel. Some of this anger stems from the Jewish state's very existence and would be appeased only with its elimination—an option the United States could not and should not permit. But some of it is due to legitimate concern over Israel's treatment of the Palestinians, and here some modifications of U.S. policy could have a positive effect. Washington could support Israelis who seek to correct injustices committed by their government, and it could more strenuously oppose Israeli settlement activity and Israel's de facto annexation of occupied territories in the West Bank and Jerusalem.

A third Muslim concern is U.S. silence about the mistreatment of Muslims in China, Russia, and India. It is the governments of those countries, of course, that bear responsibility for the abuse of Uighurs, Chechens, and Kashmiri Muslims. But while prudently rejecting secession, Washington should press Beijing, Moscow, and New Delhi to remedy the injustices these Muslims face, protect their human rights, and grant them more autonomy.

Finally, militant Muslims decry the presence of U.S. and Western forces on the Arabian Peninsula as sacrilegious and imperialistic. Although it would hardly be just (or prudent) for the United States to withdraw its protection of the Gulf states, Washington could disavow any intention of maintaining a large permanent presence in the region and state its willingness to pull back if and when the security situation permits and representative local governments request it. In the meantime, rather than managing relations primarily through bilateral ties, Washington could do more to promote regional security forums and emphasize the supporting rather than controlling nature of its role.

FIGHTING THE GOOD FIGHT

CHALLENGING THE justness of terrorist visions and tactics, meanwhile, offers the best and perhaps the only way to make the tactic self-defeating. Even al Qaeda leaders have at times tried to justify their actions by claiming to eschew harm to innocents. In a 1998 interview,
Osama bin Laden cited the bombings of Hiroshima and Nagasaki as examples of the United States’ failure “to differentiate between the military and the civilians or between men and women or adults and children.” Al Qaeda’s early attacks on the United States were directed against state institutions and military targets: U.S. forces in Somalia in 1992 and 1993, the U.S. embassies in Kenya and Tanzania in 1998, and the U.S.S. Cole in 2000.

Part of the reason the attacks of September 11, 2001, provoked global outrage was that the victims were noncombatants. This did not matter much to the terrorists, for whom the twin towers symbolized U.S. political-economic power and the Pentagon represented U.S. military dominance, both sources of oppression in their minds. Sensing his vulnerability among broader audiences, however, bin Laden diffidently tried to rationalize killing so many civilians by citing a “rage” that resulted in “a strong feeling against injustice and a strong determination to punish the unjust.”

U.S. policy should exploit this vulnerability by repeatedly and specifically invoking just-war doctrines. A campaign to focus on the injustice of targeting noncombatants can help alienate the small minority of global jihadists from the majority of Muslims and even Islamists who, as the International Crisis Group reports, are mostly preoccupied with “securing social justice and combating corruption.” Washington should speak less about “terrorists” and “terrorism” in the abstract and more about the specific injustices terrorists cause by targeting noncombatants, especially women and children. While acknowledging the inevitability of accidents in war, Washington should point out that the jihadists fail to live up to the obligations of justice by deliberately attacking innocent victims.

The threat of nuclear terrorism, in particular, warrants an alternative public-diplomacy strategy. Relevant governmental agencies must assume the worst and prepare both to prevent and to respond to the terrorist use of nuclear weapons. But public statements that terrorists would unhesitatingly use these weapons if they could get their hands on them may be counterproductive. Rather than expect, announce, and so normalize the possibility of such acts, Washington should highlight the unjustness and the dishonor of wantonly killing large numbers of innocent civilians. Indeed, political, intellectual, and religious leaders
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in Muslim societies, including anti-American Islamist figures, should be encouraged to condemn in advance the use of nuclear weapons and thus diminish its political attractiveness.

Of course, there are political risks to emphasizing the injustice and immorality of harming noncombatants—first and foremost the risk of exposing oneself to the charge of hypocrisy. A state that campaigns on the injustice of harming civilians and then repeatedly harms them itself will damage its credibility. Televised images of wedding parties struck by cruise missiles or the leveling of Fallujah make it harder for Washington to take the moral high ground. But the care that U.S. forces take to avoid civilian casualties can and should be contrasted with their enemies’ lack of concern.

Still, in the end, campaigns to delegitimize unjust tactics will be effective only if there are alternative, nonviolent ways to correct the grievances that drive populations to support violence in the first place. People resort to terrorism when they feel that extant rules so privilege their opponents that their own cause is doomed to fail; they use terrorism to change the terms of a conflict they are losing. So in addition to decrying terrorists and their actions, Washington must work to resolve more evenhandedly the underlying issues in dispute.

JUSTICE AND GLOBALIZATION

Terrorism and the general alienation of Muslim societies from the international mainstream may be the most pressing foreign policy challenges facing the United States today, but they are related to a broader disaffection with globalization, which is seen as a largely American project. In some ways, in fact, Islamist antagonism is a subset of the backlash against globalization. As Oxford University’s James Piscatori has noted, “the combined challenges of globalization and radical Islamism have clearly induced many Muslims to wonder how the encompassing liberal international economic order can ever respond to Muslim needs, or how a state system dominated by the US and the UN can ever be sympathetic to Muslim claims to justice.”

In Latin America, parts of Africa, and Asia, including the less prosperous parts of China, too, economic troubles appearing to result from globalization are increasingly prompting unrest. The perceived
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unfairness of international economic rules today roils almost every society, adding fuel to the fire of other grievances. The challenge, therefore, is to portray globalization—and the Western economic liberalism that spawned it—in a different light or to correct its injustices. After all, as a Dubai business magnate once said, “it doesn’t matter what you call it, democracy or anything else. What people want above all else is economic development, a way to make a living, transparency and justice. If this is achieved, they don’t care what you call the system.”

The Soviet Union’s defeat suggested that the “market state” was the wave of the future. Yet, as Philip Bobbitt rightly noted in The Shield of Achilles, “the market-state is largely indifferent to the norms of justice, or for that matter to any particular set of moral values so long as law does not act as an impediment to economic competition.” A Washington Post editorial last year captured this moral-economic tension: “The ethical basis of free markets is that they reflect free, individual choices. Workers may be paid little, but if they sign up for jobs voluntarily, then those jobs must be the best options available. ... Capitalism may remain a wonderful engine of economic growth, and growth in the long term tends to bring freedom. But in the meantime it will not be just.”

Domestic institutions and policies overwhelmingly determine the injustices people experience, but patterns of international trade and the rules governing them reveal much about the fairness of the international system. On average, developed countries maintain much lower tariffs than poor countries do, but they maintain high barriers to goods exported most intensively by developing countries. Economists Joseph Stiglitz and Andrew Charlton have noted that after the implementation of the commitments agreed on during the Uruguay Round of international trade negotiations, “the average OECD [Organization for Economic Cooperation and Development] tariff on imports from developing countries [was] four times higher than on imports originating in the OECD.”

The current Doha Round of negotiations is supposed to focus on promoting development. Above all, this should mean lowering tariff
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barriers and allowing people in poor countries to sell their goods and services, particularly agricultural products and textiles, in rich-country markets. Countries with large shares of agricultural workers also need to be able to defend against labor-displacing food imports when alternative nonagricultural jobs are insufficient to absorb the displaced workers. Unfortunately, these are precisely the issues on which the Doha Round is stuck.

The recent furor in the United States over the outsourcing of white-collar computer-programming and service jobs to India and other developing countries illuminates the problem. American workers who have played by the rules find it unfair to be losing their jobs to lower-wage workers in other countries. But the new workers in developing countries have also played by the rules, and they find it just as unfair for U.S. politicians, responding to their pained work force, to propose legislation barring outsourcing.

Economists say that in theory and in due time everyone should come out a winner. Those in developing countries who gained jobs will also gain more money to purchase value-added products from the countries that lost the jobs, and this new demand will create new jobs for the displaced workers. Meanwhile, the logic also goes, all of them will benefit from the lower prices and greater efficiency resulting from such market churning. But the theory is only partially valid. As The New Yorker’s John Cassidy suggests, “some Americans gain: consumers, who enjoy lower prices; stockholders, who see profits rising at companies that employ cheap foreign labor. Some Americans lose: workers whose jobs are displaced; the owners of firms whose contracts are transferred to foreign suppliers. But the economists’ argument that the country as a whole inevitably benefits is questionable.”

POLITICS VERSUS MARKETS

Real and perceived economic injustices matter for many reasons. Human beings display a strong preference for equality, a belief that rewards should be commensurate with effort rather than the product of unearned advantages and rigged rules. In a multiyear survey of more than 30,000 respondents in 31 countries, almost 90 percent agreed or strongly agreed that the differences between rich and poor
countries are too great. When people feel that their socioeconomic positions do not correspond to their efforts, their disaffection mounts. Disaffected populations can then become unstable, undermining economic productivity, political order, and international security. Studies indicate, for example, that high levels of inequality exacerbate poverty and retard growth. Particularly in fledgling democracies, they often presage social conflict, including struggles to redistribute public resources, which in turn harms investment and the functioning of the state.

In Russia, a backlash against the unfair privatization of Soviet-era enterprises, particularly in the energy sector, has roiled the polity and caused economic uncertainty. The Putin administration's assault on the giant energy firm Yukos and its president, Mikhail Khodorkovsky, has enjoyed popular support in part because it has seemed to redress actions that had exacerbated economic inequality. But the case has generated uncertainties about property rights and economic rules in Russia that may impede future investment and economic growth.

Latin America, too, has experienced a backlash against the economic liberalization and privatization that rewarded the wealthy, well-connected few at the expense of the many. In Argentina, Brazil, Ecuador, Uruguay, and Venezuela, left-wing governments have been elected in part to rectify perceived economic injustice. These governments respond to the sense that elites have systematically underinvested in the lower classes and shaped formal and informal institutions to perpetuate their dominance. In the words of a Chilean public-opinion expert, these leftist governments “favor measures to bring in the segment of the population that has thus far been excluded from the market.” The Peruvian writer Mario Vargas Llosa concludes that “if anything can change the pessimistic attitude of many Latin Americans toward democracy, it is an improvement in justice.”

Unfortunately, the ideology of liberty currently championed by the United States cannot address such concerns. The problem is not free markets, but rather an inattention to the way the rich and the powerful shape the rules governing markets to benefit themselves. Another issue is their refusal to go beyond market incentives when such measures fail to ensure that human needs, especially those of the poor, are met. These needs—such as health care and medicine for people too poor
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to afford them or capital for farmers too marginal and remote to interest banks—are no less real or important for being insufficiently profitable: they are public goods that governments must provide to ensure a just society.

Washington needs to stop pretending that the hand of economic production is free and invisible, and recognize that its movements are directed, for better or worse, by political forces. As sociologists Roberto Korzeniewicz and Timothy Moran note, all economic activity occurs “within institutional arrangements that have a direct impact on the distribution of resources among different groups of people.”

As a first step, Washington should help sponsor a global household-income survey to provide data that would guide remediation policies. At the same time, policymakers should focus on increasing the relative gains of the poor in most countries. This would be perceived as just in and of itself and would lead to a decrease in poverty and an increase in economic growth as well.

World Bank economist Branko Milanovic has proposed an interesting step in this direction. Bilateral and international aid to developing countries, he argues, should follow the logic of progressive taxation by channeling aid toward countries with relatively low economic inequality and away from countries where inequality is so high that transfers would actually be regressive. Beyond directing resources to where they would be most equitably and productively used, such an approach would bolster the sense of taxpayers in rich countries that their money will augment social justice rather than simply help well-connected people who have done little to redress inequality in their poor countries. It would also highlight the value of promoting justice by redressing inequality.

The participants in the global economy who are treated most unfairly are those who have only their labor to sell. Unfortunately, in international trade negotiations the topic of labor falls under the umbrella of measures to liberalize the service sector. To date, powerful players have ensured that liberalization has focused on services in areas such as finance, law, and accounting, where the already advantaged and highly educated seek access to new markets. Trade rules are thus being negotiated to ease the way for corporations to transfer skilled personnel across borders. But fairness and efficiency should also impel policymakers

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Terrorism and Muslim alienation are related to a broader disaffection with globalization, which is seen as an American project.

The United States should also press harder for national and international efforts to increase poor people’s access to education and credit.

The Global Justice Movement and other critics of globalization claim that the creation and enforcement of international trade rules are inherently unfair. Although the World Trade Organization (wto) operates by consensus, effectively giving veto power to even its weakest members, the realities of market and political power mean that historically the United States, European countries, and Japan have been making the rules behind the scenes. It is only natural and not necessarily unjust that these states, the world’s most industrialized, should dominate trade discussions. But given widespread perceptions that the rule-setting system is unfair, the powerful would be wise to bring leading developing countries into the process. Whatever is lost in ease and efficiency would likely be exceeded by gains in legitimacy.

Similarly, the wto has an impressively robust dispute-resolution system, but the organization’s poorer members can have difficulty making good use of it. Some do not have the legal and financial resources to pursue claims effectively, and the wto provides no qualified legal representation for indigents. Poor states also lack the econometric and legal expertise to assess the impact of proposed trade rules on their economies. To correct important deficits in the capacity of poor states to negotiate the trade rules that affect them, they should be given resources to negotiate these thickets more effectively.
WWJD?

The market state’s inadequate attention to justice comes at great risk, because it overlooks a fundamental human need. President Bush may not have realized it, but he said as much in his second inaugural address. “There is no justice without freedom,” he stated, echoing an ancient tenet of Western political philosophy: freedom is important, but as a means to justice, which is more important still.

Even with freedom, moreover, justice sometimes gets short shrift. As the political theorist Judith Shklar argued, tackling injustice is such a daunting task that sometimes it ends up getting postponed indefinitely. Emphasizing that people are free becomes a plausible excuse for “our countless acts of injustice” and for “redefin[ing] injustice as misfortune.”

Ultimately, however, freedom is not enough; the human appetite for justice is inherent and inextinguishable. Psychologists such as Melvin Lerner have described the developmental basis of what they call “the justice motive.” Beginning with early childhood interactions, humans learn that one must often defer gratification to achieve one’s goals. Selfishness is subordinated to norms and rules that take the well-being of others into account, because doing so ultimately leads to fair outcomes. What starts as a somewhat transactional process eventually becomes normative, to the point that people witnessing injustice toward others may act against their immediate self-interest to remedy the situation. The justice motive is so strong because people need to believe that if they are good terrible things will not happen to them and to trust that this principle governs the world.

Neuroscientists and biologists are even beginning to find physiological and genetic roots for the phenomenon. Scans show that when people feel they are being treated unfairly, the anterior insula section of the brain flares, engendering disgust that overrides the rational analysis of the prefrontal cortex. And primatologist Frans de Waal writes that “all economic agents” display “strong emotional reactions to violated expectations,” implying that “a truly evolutionary discipline of economics [would consider] the possibility that we embrace the golden rule not accidentally, as Hobbes thought, but as part of our background as cooperative primates.”
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The golden rule of justice—to treat others as one would want to be treated—figures prominently in all of the world’s major religions and ideologies. The oldest recorded version of this precept stems from Zoroaster in the sixth century BC: “What I hold good for self, I should for all.” Similar formulations appear in Confucianism, Jainism, Buddhism, Hinduism, Christianity, Judaism, and Islam, as well as in the secular Western philosophy of such figures as Immanuel Kant and John Rawls.

In utilitarian terms, justice is the quality that determines whether a society can be ordered peacefully, with people complying voluntarily with its norms and rules. As international relations theorist Hedley Bull argued in his classic study The Anarchical Society, “any regime that provides order in world politics will need to appease demands for just change, a least to some degree, if it is to endure; and thus an enlightened pursuit of the goal of order will take account also of the demand for justice.” Unjust systems breed resistance and discord that is frequently met by coercion from the holders of power. The greater the resistance and the coercion, the less stable and efficient the system.

Because the aspiration for justice is so deeply rooted in individuals and collectives, any government that seeks to exert authority by peaceful means must attend to it prominently. In most complex political situations, of course, perfect justice can neither be defined nor achieved. But egregious injustice can generally be spotted in an instant. As the primary shaper and beneficiary of contemporary global order, the United States must be seen to lead struggles against injustice if its material dominance is to be transformed into legitimate authority.

In all of this, of course, liberty remains vital. Where it is denied, injustice cannot be fought. What is problematic about the United States’ current obsession with liberty, in other words, is not the liberty, but the obsession. As the political philosopher Isaiah Berlin noted, “Liberty for wolves is death to the lambs.” Unless it starts taking the promotion of justice more seriously, the United States is destined to be seen by many as the wolf at the door.
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President Bush is only half right to trumpet the spread of freedom as the main objective of U.S. foreign policy; the pursuit of justice is just as important. Broadening the focus would not only befit the United States’ political tradition, but also help neutralize opposition from radical Islamists and critics of globalization.

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