

A BIRD IN THE BUSH

A BIRD IN THE BUSH:
Failed Policies
of the
George W. Bush Administration

Dowling Campbell, *Northern Arizona University*
John Kemoli Sagala, *Northern Arizona University*
Zachary A. Smith, *Northern Arizona University*
Sayuri Guthrie-Shimizu, *Michigan State University*
Jaina L. Moan, *Northern Arizona University*
Don Rich, *Delaware and Montgomery County Colleges*
Douglas Becker, *University of Southern California*
Jerry F. Hough, *Duke University*

Preface & Introduction
by Dowling Campbell

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Front Cover: President George W. Bush delivers remarks at the 20th anniversary of the National Endowment for Democracy at the US Chamber of Commerce on November 6, 2003 in Washington.

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One epigraph for each of the last six centuries —

“As for Marcus Aurelius, even if we grant that he was a good emperor — ... there can be no doubt that he did more damage to the state by leaving such a son behind him than he ever benefited it by his own rule.”

— Desiderius Erasmus, *The Praise of Folly*.
(Sixteenth century; trans. by Clarence H. Miller)

“Notwithstanding the fact that what the old man told us a little while ago is proverbial and commonly accepted, yet it seemed to me altogether false, like many another saying which is current among the ignorant; for I think they introduce these expressions in order to give the appearance of knowing something about matters which they do not understand.”

— Galileo Galilei, *Dialogues Concerning Two New Sciences*.
(Seventeenth century; trans. by Henry Crew and Alfonso de Salvio)

*“A little learning is a dangerous thing;
Drink deep or taste not the Pierian Spring.”*

— Alexander Pope, *An Essay on Criticism*.
(Eighteenth century, written in English)

“Oh my dear friend, would you like to know why genius so seldom overflows its banks to make its wondrous way down the valley, where it would enrich all the downstream soils and plants with nutrients and life? It is because of the conservative gentlemen who live downstream and have built their winter mansions and summer cottages, complete with flower gardens and tulip beds behind white picket fences, right next to the river, and who know how to damn up such threats to progress and new thinking in good time.”

— Wolfgang von Goethe, *The Sorrows of Young Werther*.
(Nineteenth century, translation paraphrased by Dowling G. Campbell)

“Many races, like many individuals, have indulged in practices which must in the end destroy them.”

— Sir James George Frazer, *The Golden Bough*, III. VII. p. 196.
(Twentieth century, written in English)

“I just know how this world works.”

— George Walker Bush, during a debate with Senator John Kerry.
(Early twenty first century, gobbledygook)

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PREFACE

The need for *A Bird in the Bush: Failed Domestic Policies of the George W. Bush Administration* was sparked by what many informed and responsible Americans have seen as serious blunders committed by President George W. Bush during his first term of office. Especially troublesome is the 2005 Inaugural Address. This second inaugural address illustrates how “Bush II” is derailing the purpose of America as a nation. (It is analyzed in the introduction.)

Bush II could not perform this derailing all on his own. He had help. Both the introduction and the lead article, “The Height of Folly,” present a framework of Republican activities covering a wide range of conservative thinking reaching back to the Nixon era. The remaining articles then show how various additional individual policies have failed.

It is this conservative thinking that has undermined the roadbed and allowed for Bush II’s distortion of the nation’s avowed stand for freedom and democracy. The perspective of Republican activities also helps show why various Bush II policies that many see as blunders have been able to go unchallenged.

Hopefully, this book will succeed in informing voters where other media have failed. The intensity of the media, the demands of television time, along with the limited space and hence brevity of magazine and newspaper articles and editorials are three informational limitations which dictate that commentators and analysts must be too brief to even approach an adequate presentation of information for voters to vote intelligently, even when those commentators

and analysts have valid points and arguments. It doesn't matter how much you know, if that knowledge does not get across to voters.

Other books have attempted to describe these informational limitations. Neil Postman's *Language in America* rings as relevant today as it did when it pointed out the problem of media intensity four decades ago. Three decades ago, Alvin Toffler described the problem of time crunching in *Future Shock*. James Gleick has reiterated both media intensity and time crunch dilemmas in his book, *FSTR: Faster, the Acceleration of Just about Everything*.

Books themselves, with their more deliberate and hopefully more cognitive and in-depth research capabilities, are no panacea, either. Special interests, personal prejudices, religious leanings, and outright dishonesty can slant books just as easily as they do other media programs and presentations. Also, books are just as susceptible to logical fallacies and propaganda devices as other media forms are.

The writers represented in *A Bird in the Bush: Failed Domestic Policies of the George W. Bush Administration* have attempted accuracy and honesty, above all else. I am most grateful to all the scholars who have contributed so generously of their time, talent, and yeoman effort, to say nothing of their love for and dedication to their country, in preparing these articles. They join me in one of the most patriotic efforts imaginable — responsible, constructive, and caring criticism of our government.

When Vice President Dick Cheney and Attorney General John Ashcroft intimate that critics of the Bush II administration are committing treason (the same argument was made during the Nixon and Reagan presidencies), they need to recall a statement from *The Arrogance of Power*, written by one of America's and the world's most distinguished thinkers, the late Sen. J. William Fulbright. Fulbright not only approved such dissent but called it a duty. Unfortunately, this duty promotes anger from the targets of that criticism, which can result in threats from them and create fear among the public. "The discharge of the *duty* [Fulbright's italics] of dissent is handicapped in America by an unworthy tendency to fear serious criticism of our government." (p. 27) This "threat and fear" process was once again illustrated by Bush when he contended that those politicians who opposed his social security legislation would be sorry.

INTRODUCTION: BUSH'S SECOND INAUGURAL ADDRESS IN A "REPUBLICAN" PERSPECTIVE

by Dowling Campbell

With his second inaugural address, President George W. Bush transformed the office of the President of the United States into a personal "mission" that serves his individual needs and agenda rather than the needs and agenda of the nation that elected him. A self-appointed "apostle of freedom," Bush has made the world a more dangerous rather than a safer place. His stated intention to bring freedom and democracy to oppressed people throughout the world, while idealistically laudable, remains impractical, dangerous, and inappropriate, far outside the parameters of a President of the United States. Such an approach can easily lead to more violence than terrorists now create.

Throughout his first term of office, intimations of a personal agenda colored by his religious "rightist" leanings, appeared in various speeches and policies, such as Bush's canceling the \$34 million authorized in 2002 by both houses of Congress for the United Nations Fund for Population Activities, his withdrawing the US from the Kyoto Protocol, his widespread appointment of conservative judges, his refusal to even consider alternative energy sources, or, most heinous of all, waging an unnecessary and unjust war. These intimations coalesced in his second inaugural address into an unmistakable agenda that fits, not national or international needs, but a personal "mission" that has nothing to do with the presidency. Bush hid from his unjust war behind a false crusade that he created, Merlin-like, not with the wave of a wand but of Old Glory. And he got away with it!

Nobody appeared to recognize or object to the transformation. It is frightening enough that we have a president who defines himself as filling an individual rather than a national agenda; it is equally, maybe more, frightening that an entire national cadre of newscasters dutifully reported Bush II's personal mission without sounding so much as a counterpoint.

Short as it was, the speech reflected the vagueness, confusion, and contradictions that many astute listeners have come to expect. Of course, a certain amount of vagueness and generalizing must occur when speaking of national and international issues in such a truncated time frame, but the confusion and contradictions can also be used to obfuscate and beguile, rather than lead and explain.

"After the shipwreck of communism, there came a time of quiet, years of repose, years of sabbatical.... And then there came a day of fire."

The reference to "fire" went unexplained. If the fire referred to the attacks on the World Trade Center and elsewhere with hijacked airliners, the metaphor was appropriate, within limits. The fire could equally be, however, the fire that Bush himself has created with the war in Iraq.

Then came his cue for world salvation. "The best hope for the world is the expansion of freedom in all the world." Overlooking the repetition, which was a tactic in the first presidential debate, this "hope" is vague, to say the least.

"The survival of freedom in our land increasingly depends upon the success of freedom in other lands." What does that mean?

Before long, Bush's divine "mission" began to creep in. "Every man and woman has the right to freedom because they bear the image of our maker." Well, as Ronald Reagan might well say, there you go again! — a philosophical dispute and a religious perspective has no place in such a speech. This is the cloak of the religious right that he donned so effectively during the election.

Soon, however, Bush took confusion to a new level.

"Now it is the requirement to seek and support the growth of freedom... with the ultimate goal of ending tyranny in our world. Not by arms. Freedom by nature must be chosen." If tyranny is not to be ended by arms, what is going on in Iraq? If freedom must be chosen, why has the spreading of freedom been retroactively offered as the US objective in its war on Iraq? A "requirement" that "must be" is not a choice at all. Who does the choosing? Do they get to choose their own time?

"My most solemn duty is to protect this nation and its people from the threat of attack." As Senator John Kerry pointed out during the debates, Iraq did

not attack the US. There was no threat of attack from Iraq, in spite of Washington's efforts to find one. By attacking Iraq, Bush has actually increased the danger for America — and directly, for those Americans fighting and dying there.

Bush mused upon a time "When the captives are set free." Which captives did he have in mind, those at Guantanamo? Some clarification would have been helpful.

"Eventually, the call of freedom comes to every mind and to every soul." Did he mean to include Saddam Hussein? That unproven generalization either needed more thought or it was intended as a hyperbolic bit of poetry. In times of war, people expect something more substantive in an inaugural address.

Then things took an even more revolutionary turn. "When you stand for your liberty, we will stand for you." Whom was he talking to? Was he issuing a revolutionary call for the populace of third world nations to rise up against their governments? Was he trying to stir up trouble within relatively peaceful nations? Isn't this rather like the call that terrorist leaders make for their recruits to rise up against the United States (also in the name of God)?

Does the call include the Kurds? The Kurds stood for their liberty, but the United States betrayed them. Does it include Tibet? If Tibet rebels — possibly a worthy but certainly an impractical cause, right now — will Bush go to war with China? Do God and Billy Graham and the electorate want Bush to take up the rights of Buddhist monks in the Himalayas at the risk of launching a third world war? Is that in the budget?

It was disappointing, but not surprising, that the President of the United States would create such a crusade, thinking (as he apparently does) that he is a spokesman of God, despite having won his position on such a small margin. Perhaps Bush does think he's a spokesman of God. As Professor Brian Bosworth of the University of Western Australia contends (along with Diodorus, Quintilius, Arian, Plutarch, and many moderns), Alexander the Great actually thought he *was* God.

Bush's second inaugural address was a falsely patriotic and dangerous whitewashing. It would have been far better had the President remained graciously silent than to have announced a personal crusade that this country does not need, cannot afford, and for the most part does not want.

The inaugural speech would have been rather comical were it not for the fact that Bush had just been re-elected as commander-in-chief of the world's mightiest military force. Surprisingly, none of the NBC newscasters pointed out Bush's apostleship or his intimation for revolutionary uprisings.

Bush's power appears to have gone to his head. He seems to have a very loose contact with reality. Bush has sounded a repeated call for the United States to do the very thing that J. William Fulbright repeatedly warns against in *The Arrogance of Power*: setting up this nation as the vanguard of democracy and freedom for the rest of the world. There is no basis for such a crusade, not even an implication, in any of the founding documents. Bush is creating his own apostleship, as Alexander did, a calling that will grow weaker and weaker as US soldiers continue to die, as they did in Vietnam, and as Alexander's did — and, so close to the place where many of Alexander's did.

There remains the question of the legitimacy of the war, in any case. The sooner the soldiers come home, the safer the country will be. As one innovative Congressman said, during the Vietnam War, "Let's just declare victory and pull out." Far too many Americans continued to die before that advice was followed.

America has no right to tell the rest of the world how to live. Even if we had that right, we cannot afford it (as Fulbright says about Vietnam), especially at a time when policies under G. W. Bush have strained the nation's finances to the breaking point. Spending for a war is not compatible with cutting taxes.

There is a kind of madness in the facile assumption that we can raise the dollars necessary to rebuild our schools and cities and public transportation and eliminate the pollution of air and water while also spending tens of billions to finance an "open-ended" war. (p. 133)

Imagine what Fulbright might say today. His *Arrogance of Power* was published in 1966, when the Vietnam War had not reached its catastrophic dimensions. He asked,

Are we to regard communist countries as more or less normal states with whom we can have more or less normal relations, or are we to regard them indiscriminately as purveyors of an evil ideology with whom we can never reconcile? (256-7)

Fulbright could not have been advocating befriending terrorists. But he is advocating the rights of nations like Pakistan, Afghanistan, Saudi Arabia, Syria, Iran, and, yes, Iraq; and, rather than labeling them as evil, treating them with reason and decency. A great gesture toward that would be to create an anti-terrorist coalition, as Senator Kerry suggested during the debates, that includes the very countries where terrorism is most acutely operating.

From Reagan's "evil empire" to Bush II's "axis of evil," Republican conservative paranoia and fundamentalist fear have been woven into a false conviction

that has actually trapped America into committing unwanted and unneeded violence. Is that courage, or bullying?

One more quote from Fulbright:

For my own part, I prefer the America of Lincoln and Adlai Stevenson.... I prefer to have the communists treated as human beings, with all the human capacity for good and bad, for wisdom and folly, rather than as embodiments of an evil abstraction; and I prefer to see my country in the role of sympathetic friend to humanity rather than its stern and prideful schoolmaster. (257)

Note the use of the word "prideful."

Fulbright's reference to Lincoln needs an additional note. Richard Nixon liked to compare himself to Abraham Lincoln. Lincoln was not a Republican, as we understand the term today, but a Democrat. True, he was a member of the "Republican" party, but at that time the "Republican" party embraced and practiced the ideals and platforms and philosophies of today's Democratic party. It was years later that the Republican and Democratic parties evolved with their present opposing platforms and political and social and financial approaches. So when Nixon likened himself to Lincoln, either he didn't know his history, or he was being disingenuous. By likening himself to Lincoln, Nixon established a precedent of pretense that Bush II would follow.

An inaugural address in the United States is supposed to represent the greatest nation in the world. It was not supposed to represent the ideals of George W. Bush and his narrow view of his personal divine mission, but the ideals, the needs and cares, the trust of those who voted for him, as well as of those who did not. This was a speech that did not represent the views and ideals of at least half the nation he was addressing.

One indication that Bush is losing contact with reality is the fact that he seems to believe he can continue to send Americans into combat without repercussions. But objections are spreading, as they did with the Vietnam War. An ABC News commentator reported on March 3, 2005, that "The parents don't want their children going to Iraq." Of course, Americans feel for the down-trodden. But many doubt that George W. Bush's God is instructing him to take such risks with other humans.

Somehow, America's process has been misdirected. There is also a question of the ability to interpret, to interpolate, to recognize and respect others, to step out of narrow and regional and self-serving conservative limitations of knowledge and expand into the wisdom of not only tolerating but empa-

thizing with foreign viewpoints and approaches and needs, as Fulbright told us in his inestimable book.

The news commentator Daniel Schorr pointed out (NPR, February 26, 2005) that when Bush accused Russian President Vladimir Putin of not practicing democracy, Putin claimed to be practicing democracy, indeed. It's merely Putin's version of it, and Putin has a right to that version, even though it is different from Bush II's. Does Bush contend that each country in the world must not only practice democracy, but practice Bush's particular version of it? What is that version? No two history or political science professors (or any other two people) are likely to agree on exactly what freedom and democracy are in the first place; and who can claim to have the last word?

Another problem is, of course, that Bush II has to deal with the shortfalls of Bush I in Iraq. Although it remains largely unspoken, many if not most Americans thought Saddam Hussein's threat had been resolved with the Gulf War. But Bush II should have at least worked to gradually resolve the issue via a coalition, so that better control could be maintained.

To understand how this apostolic role of world savior for freedom has been imposed upon all US citizens, it will help to take a look at Republican, and not incidentally conservative, presidential thinking during the last thirty years. This perspective requires special needs. We need a language, for instance, that cuts through the (apparently intentional) confusion and vagueness that bridges from Watergate to Bush II, a language that aims toward truth and integrity — but most of all, a language that balances the scales of justice.

This language needs to be at the same time a language of inspiration, for this book hopes to save the United States from being sidetracked from its traditional mission as stated in the *Declaration of Independence*, our *Constitution*, the "Preamble," and the "Bill of Rights."

This sidetracking seems to have become a special goal of Republicans, who with Richard Nixon attempted to establish a tradition of preferring the promise of a man over the promise of a nation. The office of the presidency does not authorize Nixon or Bush or any other individual to dabble with these documents to justify personal ends or goals or individual aspirations.

In addition to effective phraseology and inspiration, the language required to expose Bush's tactics needs perspective. The idea of "political apostleship" is not necessarily new, but it is when applied to the office of the US President. The "Mitchell mentality" that dominated Republican thinking during the Nixon era

can be seen as continuing through the Reagan and into the Bush II eras. Such processes as "dumbing down" and "intellectual downsizing" and "neglect of the intellect," often seen as operating at colleges and universities, must now be perceived as having played their role for decades in a wider frame of conservative political thinking.

One of the challenges of the new language is to avoid falling into the traditional polemic, invective, name-calling, logical fallacies and propaganda devices. Some degree of polemic is bound to occur when discussing what is, for all intents and purposes, a two-party system, especially when those two parties are split not only by the terms but the ideologies of "conservative" and "liberal."

The greatest challenge of *A Bird in the Bush* is to use language responsibly, to produce an objective and accurate verbal magnifying glass or lens (as Galileo did, in proving his theories against a hotly objecting Church), and not to take one isolated or trivial or irrelevant example and claim that it represents a universal truth (as Rush Limbaugh likes to do, in a pretense of presenting Republican ideals).

True, the sub-title, *Failed Domestic Policies of the George W. Bush Administration*, can be called a prejudicial element; but the writers of these articles use logic, common sense, integrity, and responsible documentation to illustrate that the policies they discuss have indeed failed.

A language of confusion, vagueness and bias was promulgated by leading Republican politicians during the Nixon presidency. The phrase, "at that point in time," was used extensively as a hedge during the Watergate scandal in an attempt to hide Nixon's crimes, but many neologisms were used to inflame and divide the nation before the Watergate crimes were committed. Nixon's Vice President Spiro Agnew developed a particularly specialized language, crafted to please conservatives while it inflamed liberals. Three favorites were "silent majority," "effete snobs," and "those who fashion themselves as intellectuals." Agnew did not realize that to "fashion" oneself as an intellectual actually was a compliment. It means to make or mold or shape in a certain way, rather than to fake it. But that misunderstanding made no difference. Agnew got much mileage from that phrase.

Fortunately, in the end the language of the Nixon-Agnew conservative faction failed. The language of this book may fail, as well, but it is a crucial effort to counter the tide of deceptions that inundate our entire culture, through everything from television commercials to political speeches that spend at least as

much effort covering up the truth as trying to express it. Even now, Bush continues to invent language ploys. On an ABC newscast of March 3, 2005, Peter Jennings observed that Bush said he was “keeping the pressure on Bin Laden, and keeping him in hiding. Which is another way of saying they haven’t been able to find him.” The task of *A Bird in the Bush* is to get both the facts and the language as straight as possible.

One of the best recent balancers of language is Brian Green. In *The Fabric of the Cosmos*, Green lists “Entropy” as the 2nd law of thermodynamics. This law states that things in the world, at least from a scientific standpoint, naturally proceed from good to bad and from bad to worse. Once an egg, for instance, is broken, it cannot be put back together. An automobile, a garage, a house, a room, a desk, relationships, a life, a war, all lose their order, naturally, with the flow of time, and eventually will end in chaos if they are not tended with constant and proper attention. By the same token, sloppy language and thinking readily deteriorate to self-serving prejudice and faulty thinking.

The articles in *A Bird in the Bush* illustrate how Green’s version of entropy has occurred with the United States under the presidency of George W. Bush. False patriotism and nationalism, stirred by personal individual prejudices, driven by conservatism and Christian fundamentalism, are not the way forward. By appealing to a narrow intellectual outlook and perspective, Bush II’s “freedom” and “patriotic” acts have prompted some critics to issue grave warnings against infringement on the Constitution. Individual rights are violated, in spite of the pledge of “liberty and justice for all.” Freedom from a narrow “Christian” viewpoint is compromised, in spite of the fact that John Adams conspicuously declared that America is not a “Christian nation.”

To understand Bush II’s success, and to help educate voters about the process, the values of patriotism and nationalism, so important to Bush II’s agenda, must be examined and weighed. Great military exploits are traditionally held to be positive — but only by the winner. History has seen extreme examples of both patriotism and nationalism; as positive and needful as they are, like the traditional values of courage, loyalty and pride, it is useful to reflect on what they are and what they are not — especially pride, as it so readily slides into arrogance. George Washington exemplified the spirit of idealistic freedom, liberty and justice for all, when he refused both the crown and title of emperor offered to him. There is no indication, however, that he or any other of the nation’s founders ever could have conceived of setting himself up as an apostle of

world peace, through fundamental religion or any other vector, and offering military might as back-up for personal gain, much less of what they perceived as God's work or "mission."

Gustav Stresemann won the 1926 Nobel Peace Prize for orchestrating Germany's entry into the League of Nations (which Republicans sabotaged, by keeping the United States out of it). Hitler was soon to follow, with a super-charged program that betrayed humanity, in the name of patriotism and nationalism, and world peace — the same motives claimed by George Bush today.

Voters need to take new perspectives and definitions of freedom and democracy. US politicians, leaders, thinkers and policy makers — and most of all voters — need to outgrow the over-simplicity of Joseph McCarthy paranoia and the myopic, self-centered impulses that have been creeping insidiously into the political process.

Loyalty to a leader must never be granted at the expense of a nation. The Agnew, Mitchell and Haldeman approach of the Nixon administration are poor examples for posterity, as are the examples of Ashcroft and Cheney. John Dean refused to lie for his president, despite pressure from close associates. Ronald Reagan's admonition to "stay the course" was only another way of fending off open-mindedness and legitimate criticism. But citizens in a democracy must criticize their presidents, when they warrant criticism, no matter the consequences.

As Sen. Joe Biden observed to Bob Schieffer, on "Face the Nation," President Bush is decisive enough — but he makes the wrong decisions.

Such honest criticism is fraught with risk, even for non-US citizens. Françoise Ducros, the communications director of Canada's Prime Minister Chretien, had to resign her job because she blurted out that George W. Bush was a "moron."

A major difficulty is that the Republican political perspective is steeped in conservatism. Conservatives are characterized by, among other important traits, a suspicion of new ideas and a fear of change. Of all the ideals that compose conservatism, fear of change is the most paramount. Ronald Reagan may have characterized this thinking best with his repeated phrase, "Stay the course."

Conservatism reflects strange ironies. Average voters seem to be put off, almost offended, by intellectual candidates. Put a more intellectual candidate and a less intellectual candidate together, and the "grass roots" voter, the common man, so to speak, historically has voted for the less intellectual can-

didate. This fact had a lot to do with Dwight Eisenhower's defeat of Adlai Stevenson, Richard Nixon's defeat of Edmund Muskie, and Ronald Reagan's defeat of Jimmy Carter.

Somehow, conservatism also appeals to the poor, encouraging them to continue voting for a candidate who they know will take their money. Bill Cosby illustrated that on the "Tonight Show," shortly after Ronald Reagan was elected president. Cosby looked directly into the camera and said to millions of listeners, "Ronnie, you can't keep taking from the poor and giving to the rich like you're doing." In spite of the thunderous applause, Cosby was wrong. Reagan was re-elected by a huge margin and he did continue to invert the Robin Hood paradigm.

In addition, conservatives tend to discount, slander, and even destroy rather than value opposition, no matter how worthy. Nixon destroyed Helen Gahagan Douglas, in California, with a craftily designed campaign of slander. Nixon never called Douglas a communist, and certainly not to her face. Rather, he made clever and misleading insinuations that stuck in the listeners' minds, like "[she was] pink right down to her underwear." His committee workers did more actual slandering. Richard Milhaus Nixon claimed to be a conscientious Quaker; but he went on to slander his presidential opponent Edmund Muskie, and he did the same to Eugene McCarthy. This was not stupid, but it was immoral. And, the voters rewarded him for his immorality, in the name of morality.

From Plato's "Myth of the Cave" in his celebrated *Republic* (4th century B.C.) through Sir Thomas More's *Utopia* (early 1500s) and Ralph Waldo Emerson's "Conservatives and Liberals" (mid-1800s), it is not difficult to show that the world's greatest thinkers have consistently considered conservatism as a negative force of human thinking. Yet Thomas Hobbes in *The Leviathan* theorizes that 90% of the people in the world are 90% conservative.

Throughout history the conservative viewpoint can be seen not only to dominate culture but to impede its progress. It shuts down thinking. It poisons initiative. And most damaging, in spite of Edmund Burke's and William F. Buckley's eloquent and articulate attempts to argue to the contrary, conservative thinking disregards and discredits knowledge, both old and new — knowledge that people need in order to keep from repeating past mistakes (as the US is doing now, in Iraq, for instance).

Given their penchant to discredit and even destroy detractors, devotees of the conservative viewpoint create disrespect for knowledge. They belittle those who study and research, who seek to learn and understand, whether in the sciences or the arts or social studies. Bush II has replaced educators with conservative politicians in restructuring the nation's educational policies. It was the conservatives, i.e. Tory supporters, who opposed America's breaking away from mother country England. Conservatives were initially very much opposed to the creation of the United States.

There is an inertia of the human mind that prefers to do nothing. Students, and college students particularly, can become upset when a professor gets them to thinking at new levels. The flood of ideas which sometimes uproots parental training and modeling and even cultural values has been documented as unsettling and disturbing to those who first experience it. Bush II's unwillingness to address issues like world population, alternative energy sources, and the Kyoto Global Protocol, are only three of numerous examples that demonstrate this inertial quality of conservative thinking.

There is now much evidence to support the claim by Thomas Hobbes two centuries ago that the combination of fear of change marked by concern for destruction and suspicion of new ideas and thinking grows within the natural inertia of the human mind. There is also much more to conservative thinking, of course, that needs to be developed in continuing study; but these are the most visible characteristics.

Nixon's Vice President, Spiro Agnew, former governor of Maryland, not only perpetuated but intensified the anti-intellectual trend among conservative voters. A brief outline of Agnew's conservative impulses helps to develop the background for a better understanding of Bush II's policies.

A tragedy occurred at Kent State University in 1970, when National Guard members killed students who were not even involved in the anti-war demonstration. President Nixon cancelled the investigation into the incident only weeks after it began. Agnew, of course, fully supported Nixon's cancellation. When Seymour Hersh wrote his book, *The Truth about Kent State*, he used as his epigraph this quote from Spiro Agnew: "The next time you see a group of students walking toward you, consider they are wearing brown shirts and treat them accordingly." Agnew was at the height of his popularity at the time, and his words spoke to the hearts of those he had previously labeled the "silent majority." Agnew's successor as governor of Maryland ended up in prison for

inheriting Agnew's string of contracting kickbacks while in the gubernatorial office.

One of Agnew's most visible gestures against intellect, integrity and the principles of freedom and democracy was the formation of his White House Guard: a platoon of white-uniformed, cross-belted soldiers. Nixon must have approved such a farcical expenditure of tax money. Apparently, better minds prevailed, however, because the White House Guard dissolved during the next several months. It remains, however, a telling symptom of the "Mitchell mentality."

Martha Mitchell, John Mitchell's wife, played a role as another national Republican icon in the dumbing down during those years. She appeared before newspaper and magazine and television reporters again and again to blame all the nation's ills on the "permissive generation" fostered by teachers and "liberal" professors in particular. The same kind of blame of teachers is coming from the Bush administration; only, Mitchell's blame was overt, whereas Bush's blame is more indirect and insidious, as the section on the *No Child Left Behind* program will show.

Spiro Agnew cleverly invoked the support of the "silent majority" (like the "moral majority" of later Republican fame). If it was silent, many wanted to know, how could anyone know it was a majority? And yet, Agnew made hay with that phrase. He probably did not know that Mark Twain had beat him to the concept by more than half a century. Twain used the phrase not for narrow political gain but for expansive humanitarian purposes, in a little-known but powerful essay, "My First Lie and How I Got Out of It."

Nixon relied on Agnew to conduct attacks on "liberals" much as he had relied on his campaign workers in California to do his dirty work of slandering Helen Gahagan Douglas. But Nixon was fully capable of engineering and conducting his own outrages as well. His Watergate crimes, for example, were preceded by sweetheart deals with oil and dairy and timber industries, to name only three.

One of Nixon's most notorious crimes was authorizing the murder of President Allende of Chile, while George H. W. Bush, incidentally, was in charge of the CIA. When asked by David Frost, years later, why he did that — when Allende, after all, had structured a democracy in Chile — Nixon replied, "But it was a Marxist democracy." Years of atrocities by Pinochet followed from that murder.

Senator Sam Ervin chaired the Watergate investigation that brought Nixon down. At one point, Ervin asked John Mitchell whether his exalted position would not have precluded him from breaking the law, from authorizing illegal wire taps and laundering money. Attorney General Mitchell replied, "Mr. Chairman, we [evidently, the Republican lawyers and politicians scrambling to cover up the Watergate crimes] thought so much of this man [Richard M. Nixon] that we would have done anything to keep him in office."

This is what I call the "Mitchell mentality," a way of thinking that installs power and profit as the major purpose of politics, much like what Halliburton Company is doing today. This mentality dominated the administrations of Nixon, Reagan, Bush I, and Bush II.

Why didn't Mitchell's statement create a bigger furor? Apparently, most viewers and commentators had become accustomed to the "Mitchell mentality" long before John Mitchell declared it publicly. Republicans running the country via the Nixon machine would naturally have placed loyalty to their leader and the purposes of their agendas and bank accounts above the well-being of their nation. Since at least Calvin Coolidge, there was nothing new in acting against the interests of the common people in order to aggrandize the "leader."

Ronald Reagan continued this conservative tradition during his two terms as president. At times, Reagan would pretend he couldn't even say the word "liberal," referring to it as "the dreaded 'L' word." Reagan's illegal and illicit sales of arms to Iran was precluded by sabotaging educational funds, canceling tax incentives for solar power (thus further enriching energy magnates who helped put him in office), and continuing the spoliation of the wilderness for the profit of a few — reminiscent of Nixon's selling off massive timber rights to Japan for the profit of a few cohorts and the loss of Americans as a whole.

Many Americans conveniently forget — or maybe they never knew — how close Reagan came to impeachment over the sales of those arms to Iran. Not much was ever said about that. Instead, the man and his associates are considered champions in a country that would rather impeach a president for sexual misconduct than for legal and financial misconduct that amount to a betrayal of the nation. One of Reagan's leading accomplices was Oliver North, who now has a regular television program. When the suggestion was made that Reagan may not have known of the illegal sales of arms to Iran, one commentator observed that Reagan was a poor president if he did not know, and an even poorer one if he did know.

The destruction of America's irreplaceable natural treasures by Reagan's Secretary of the Interior James Watt also set Republican patterns that prevail today. Watt likewise ridiculed and scorned anyone who disagreed with him.

The public's vague knowledge of Reagan's military policies gave him credit where credit was certainly not due. Many, perhaps most, Americans believe even now that Reagan was responsible for the production of the war machine with which George H. W. Bush won the Gulf War. But the president who was on watch during that build up was the Democrat, Jimmy Carter, who stood in the line of living former presidents and graciously smiled when credit was publicly given to Reagan. Many Americans still believe that Reagan's "Star Wars" was a viable defense research process, when it was proven to be a waste of resources, talent, and money. The program led to no additional security and channeled profits into the pockets of industrial and political favorites.

Perhaps Reagan's most damaging action was his tripling of the national debt. This debt was tripled by his many policies, led by Star Wars, that drained money from the treasury. The Republicans who had whooshed Reagan back into office for a second term smugly criticized Democrats as the big spenders, while stuffing their own pockets.

This is the Republican, and not incidentally conservative, legacy that G. W. Bush is perpetrating. David K. Shipler in *The Working Poor* illustrates how Republican reforms continually have failed, and fail, to go far enough. Hilary Clinton's *Living History* documents the fact that Democrats have constantly requested more adequate social support for the underprivileged and poverty level people, while Republicans, who are at the controls, continue to provide woefully inadequate child care, job training, education and other social programs. Care that falls short, Shipler explains, provides temporary relief that inevitably fizzles, thus allowing Republicans to make the baseless claim that people on welfare "don't want to work." Any pundit can come up with stories about welfare fraud and suggest that they illustrate the general rule: this is one of the most popular of logical fallacies.

A century ago Henry James observed that humans can become violated by an ideal, an ideal that blocks other thinking and shuts out possibilities that would actually save people from their own destruction. In novel after novel, James illustrates this process in action. Conservatism not only enables but causes people to violate humanity's ideals. Conservatism has no conscience. Hilary Clinton raises the question in *Living History* how a person can be a Repub-

lican and also be a Christian. The popularity of conservatism underscores the impact of Sir James George Frazier's remark, "Many races, like many individuals, have indulged in practices which must in the end destroy them."

Charges by both Cheney and Ashcroft that Bush critics are traitors confirm that the "Mitchell mentality" is alive and well today. During his presidency, George W. Bush has merged Nixon's "Mitchell mentality" with the "Reaganomics" of exorbitant triple-national debt spending, along with "stay the course" stubbornness, again swelling Republican bankrolls while accomplishing very little and blaming his exorbitant spending on Democrats.

All of these outrages and atrocities came with a "Christian" conservative label, which is discussed in the lead article under the section, "The Folly of the 'Religious Right' with Its Fundamental Halo." Combine the short-sightedness of conservative sympathies with a massive dose of religious fundamentalism, and you have a prescription for totalitarianism.

This totalitarianism depends for its survival on a lack of information, unwillingness to accept responsibility, fear of new ideas, and the need to keep the voters largely ignorant of this lack, unwillingness, and fear. Hence the metamorphosis of worthy patriotism and nationalism, so important to George Washington and John Adams and other founding fathers in the making of America, into false pride, pretense, deception, and what Fulbright calls "arrogance."

The religious right, for example, has a history of extreme conservatism that in some ways resembles the beliefs of the terrorists whom they call their "enemy," and whom they do not understand. Nor do American religious fundamentalists realize the anti-American ramifications of the view that all opponents are not only wrong but are agents of the devil. The philosopher Jean-Jacques Rousseau offered the possibility of disagreeing with one's opponent until death — while defending to the death his right to hold a differing opinion. That concept became a basic tenet of American liberty — but it seems to have been forgotten.

One more book needs to be mentioned here. It is on sale in the National Archives of the Smithsonian Institute, on a bookshelf in the same rotunda with the Declaration of Independence, Bill of Rights, and Constitution. In *The Book on Bush: How George W. (Mis)leads America*, Eric Alterman and Mark Green go far beyond the limited concept of Glen Smith's book to project many of the same arguments outlined in the first chapter of this work, with thorough and painstaking documentation. Like many educated, intelligent citizens, they are con-

cerned enough to try to rescue the country from the narrow religious, commercial, and conservative interests that are besieging it.

The United States needs a president who will openly promote government with a conscience for the needs of his own nation first: not special interests and those who fund them, and not a fundamentalist who interprets a narrow victory as a mandate to exploit his narrower religious “mission.” We need a president who will inject that conscience into business and the corporate world, into those Enron executives who laughed at the notion that they had robbed little old ladies of their life savings. Most of all, we need a president who listens as well as prescribes, who respects and utilizes experts, whether they be educators, or scientists, or environmentalists, and regardless of their religious and spiritual outlooks.

CHAPTER I. GEORGE W. BUSH POLICIES — THE HEIGHT OF FOLLY

by Dowling G. Campbell

In the early sixteenth century, Desiderius Erasmus wrote the time-honored book *The Praise of Folly*. In the twentieth century, historian Barbara Tuchman wrote the highly regarded book *The March of Folly*. “The Height of Folly” seems an appropriate title for the lead chapter of the current work, which examines George W. Bush’s policies.

These policies reflect such a muddle of fear, false pride, and unrealistic and self-serving goals that “folly” seems to be the best term to describe them, particularly in the way that Erasmus and Tuchman have defined it. No organizational pattern readily presents itself for analysis. Domestic and foreign alike, the policies controlling and directing the “war” against Iraq, the economy, taxes and the acutely unbalanced national budget (the US is now \$51 trillion in debt, according to Laurence Kotlikoff and Scott Burns, *The Coming Generational Storm*), the danger to the social security system, women’s issues, children’s issues, education, Bush’s so-called “morality” that played such a decisive role in soliciting uninformed votes, the environment, the economy, and jobs are tangled into perhaps the world’s largest political Gordian Knot. If that knot cannot be untied, maybe it can be cut through.

There are seven “follies” distinct enough to warrant separate definitions and discussion, although some overlap is inevitable. These are 1) the folly of the first presidential debate, 2) the folly of fear, 3) the folly of pretense, 4) the folly of

the “religious right” with its fundamentalist halo, 5) the folly of pride, 6) the folly of *No Child Left Behind*, and 7) the folly of neglect.

The “war” against Iraq surpasses any category of its own. This military action pervades all the other follies, and every aspect of life. All Americans are affected by every aspect of this war, from the actual killings on all sides to the carefully disguised massive expansion of expense, and the windfall profits to the Halliburton Corporation and others.

The declaration of war was not only unjust, but unwise. By declaring war, Bush gave terrorists, and particularly Bin Laden, an unwarranted advertisement. They did not deserve the dignity of provoking the United States into a “war.” The same results (or better) now seen in Iraq could have been achieved by working through a United Nations coalition, with many thousands of lives saved (including over 1500 Americans, and more than 10,000 American wounded).

1) THE FOLLY OF THE FIRST PRESIDENTIAL DEBATE

In the first 2004 presidential debate, George W. Bush exhibited several signs of logical breakdown — or at least neglect: repetition, labeling, false accusations, lack of documentation, and clamming up when he found it more convenient not to respond. Bush irritated the more thoughtful viewers by repeating unfounded assertions, as if repetition alone would be convincing. Apparently, he was right, in that.

“It’s hard work, it’s hard work, it’s hard work,” he insisted, never disclosing what “it” was. And referring to Kerry, “He changes position, he changes position, he changes position.” Bush conceded that he himself might “shift tactics” once in a while, but would never change “core values.” Bush gave no explanation of what a “core value” is, and he certainly gave no convincing or viable example of Kerry changing a core value — although he tried. Half an hour earlier, Kerry himself had explained that he recognized the need to shift tactics and had done so when situations demanded.

Evidently, Kerry did not repeat himself enough. His phrase, “wrong war, wrong place, wrong time,” and his reminder that Bush’s team had failed to formulate a peace plan to accompany the declaration of war, seems not to have sunk in. Or the fact that Bush had promised to go to war only as a last resort. Kerry was on target with each of these contentions, but his accuracy was no match for

Bush's numbing repetition. More than one political analyst commented that Kerry should have been less introspective and more repetitive.

Three reasons to use repetition are 1) when the listeners may not have heard or may not be paying attention, 2) when they are listening but they don't believe what is being said, and 3) when the speaker really does not have much to say. Bush's use of repetition appears to have been based on a mixture of all three.

Several times, Bush counterpoised his repetitions with the opposite (although equally uncooperative) technique, that of clamming up, again exhibiting a kind of petulance. He simply refused to respond to Kerry's remark, "We didn't need to rush to war without a plan for peace." He also refused to respond each time Kerry asked where the funding was for the *No Child Left Behind* program. Nor did Bush answer when Kerry called him on his own false statement, "The enemy attacked us."

When Bush refused to respond on that point, Kerry noted that Saddam Hussein did not attack the United States. And no national agency — not the CIA, not the FBI, not the Pentagon — has been able to place Osama Bin Laden or his operation in Iraq. If Bush meant to say that terrorists attacked first by destroying the World Trade Center buildings, he ought to have said so. But, the entire notion that Iraq was a direct threat and is nothing more than a basic logical fallacy.

Bush used silence as a ploy; Cheney used the same device several times during the vice-presidential debate. But Cheney at least acknowledged that he heard Edwards, saying things like, "I have no comment on that," the more contentious phrase "I don't care to comment on that," and "the record speaks for itself."

Kerry's charge that the Iraqi War is taking \$200 billion from health care and schools really deserved an answer. If it's not true, Bush at least should have said so. If it is true, Bush even more urgently should have explained why that is justified.

Bush's idea of training Iraqis to do the job in Iraq is commendable. But as Kerry stated, that idea came too late. It should have been planned well before and enacted at the start of the war. Perhaps if Bush had worked with a coalition, such a plan for conducting the war and a plan for peace might have been in place. One military analyst, speaking on a December 2, 2004 National Public Radio broadcast perhaps said it best: "The decision to disband the Iraqi military when we did was an incredibly stupid mistake."

Several times Kerry raised the question of why Bush did not consult a coalition before going to war. The first couple of times, Bush brushed off an answer. He evidently realized, however, that Kerry's insistence demanded some kind of answer, so he spun out the reply we've heard from other Republican pundits since then: that a coalition would not do what "we" wanted.

Then, however, Bush made one of his "tactical shifts." He bragged about the coalitions the US has working with Iran and with North Korea. Coalitions can work, after all, just not with the war in Iraq as conceived in Washington. And when Bush tried to claim that the insignificant number of foreign representations in Iraq indeed constitute a coalition, Kerry called him on that as a false pretense. When Kerry then pointed out that President Clinton had negotiated diligently to get international inspectors placed in North Korea and Bush undermined that effort, again Bush made no response.

The fact that both Bush and Kerry agreed that nuclear proliferation was a major world problem appeared to be gratifying. But once again, there is strong evidence that Bush was, to use a phrase from *Gulliver's Travels*, "saying the thing that is not." In spite of both candidates' contention that controlling nuclear proliferation is crucial, and in spite of the fact that Bush had boasted about working out a coalition with Iran among other countries, a November 4, 2004 NPR broadcast reported Bush's refusal to join worldwide discussions of how to control Iran's nuclear development.

Bush's refusal to conduct the Iraqi War, including its declaration, via a coalition, as well as his refusal to join a coalition to control Iran's nuclear proliferation, is a violation of common sense and a betrayal of this nation's historical precedent. It was coalitions and the need for them, and the disastrous absence of them, that underpinned the United States' early concept of working with and through coalitions.

The roots of the coalition tradition reach at least as far back as fifteenth-century France. After more than half a century without war, the Peace of Augsburg (1555) was destroyed in 1608 when Prince Maximilian of Bavaria "annexed and re-Catholicized" the city of Donauworth (Philip Bobbitt, *The Shield of Achilles*, p. 501). The collapse of the Augsburg Confession "invited the carnage of the Thirty Years' War," as Bobbitt puts it. As Bush appears to be doing today, Maximilian acted for his own purposes, which were visibly influenced by religion, without benefit of or any attempt to create a coalition of the many involved and concerned states. Peace was finally achieved in 1648 by the Constitution of Westphalia. A coalition did it; a coalition described by historians as "a

truly European Congress” (E. A. Beller) and “a broad multi-lateral forum of parties” (Bobbitt).

Kerry and others have asked why no real coalition was called to initiate and conduct the Iraqi war, and what kind of coalition would be utilized to settle it. Bush’s team seems to have the pride — or the arrogance — to think that they alone know how to do this.

There is a connection between Maximilian and the United States today. In his comprehensive historical analyses, Bobbitt shows how the “post-Augsburg legal world” gradually evolved into a body that would be founded and would operate upon the “law of nations.” This “law” would then take the “state,” i.e. each and any single and separate European nation, “beyond the person of the prince.”

This coalition set a precedent that progressed with European development through the seventeenth century and beyond. This new concept of law superseded “English common law” and represented “a journey to a new world,... demanding recognition for an entire society of states” (Bobbitt, p. 500).

History shows that the United States should be doing the same thing in its conduct of war. There are many benefits to working through “an entire society of states,” that is, relevant, concerned, and involved nations, who can share the burden in decision-making, financing, and otherwise, from the moment of that war’s declaration and inception. By conducting the Iraqi War without benefit of a coalition, without acceding to the United Nations, President Bush has defied a crucial and hard-won historical precedent. He is spending money and sacrificing lives that should be part of a global network for peace. Bush seems to be saying to the rest of the world, “It’s my football, and we’re going to play by my rules.” But it is not his yard. The game is being played in the world’s yard.

When President Bush and Senator Kerry talked a little about the Pell Grants, Bush said he supported them. That was more than a “shift in tactics”; that was a change of “core values.” In early February of 1985, Reagan, with full Republican support, reduced federal financing aid to college students by \$2.3 billion. Reagan’s cut all but eliminated the Pell Grants, and at a time when, according to Michael Boskin (*Reagan and the Economy*, 1987), “the personal savings rate... was at a 40 year low.” By claiming that he, as the major — and thoroughly Republican — representative of the White House now supports Pell grants, Bush has not only “changed position,” as he accused Kerry of doing, but he was actually reversing long-standing Republican Party core values.

The debate ended with a shameless lie, when George Walker Bush blurted out, “I just know how this world works.”

Kerry came out as the more intelligent, more articulate candidate with the better judgment. But that didn’t matter. The voters went for the loser. Charles Krauthammer, speaking on NPR Radio, characterized those who say they’re against US troops torturing Iraqi POWs, without any insights into specific situations and details, as “easy, cheap, and worthless.” What were Bush’s responses to each issue during the debates?

In the second debate Bush did not repeat as much, but he started plastering the “liberal” label on Kerry. Kerry asked Bush outright, “Will you please stop using these useless labels?” Evidently, the labels stuck, however, even though they are among the most obvious of propaganda devices.

2) THE FOLLY OF FEAR

As already mentioned, Sen. Fulbright states in his book that, “The discharge of the *duty* of dissent is handicapped in the United States by an unworthy tendency to fear serious criticism of our government” (p. 27). Although it may come as a surprise to Americans, Fulbright was right to be concerned that people here might be afraid to criticize the government.

The 2004 Kerry-Bush Presidential campaigns reflected in large part freedom and valid criticism (Kerry) vs. fear and pretense (Bush). While the economy, the environment, health coverage, child care, education, and the war against Iraq and other important issues cropped up time and again during campaign speeches and all three debates (all four, counting the vice-presidential debate), the real vote-swinging tactic came down to the Democratic approach relying on thought and reason while the Republicans resorted to fear, stimulated largely by false reporting.

For the 2004 Presidential election, Republicans marketed the same kind of fear that the Bush administration emanated during the first four years of the G. W. Bush presidency. That fear soaks into voter mentality at all levels and compels less well-prepared voters to worry that if they don’t vote for the conservative fear-monger, they and their country are in danger.

Cheney made that charge openly and directly on September 12, 2004, remarking that if the voters didn’t vote the “right” way, they could expect another attack. And enough voters evidently believed that. Although it gen-

erated a plethora of protests from even right-wing thinkers, Cheney's tactic helped create the fearful mentality needed to get just enough votes to win the election.

Evidently the average voter has forgotten Franklin D. Roosevelt's memorable words, "We have nothing to fear but fear itself." Although Roosevelt was talking about the Depression, his words later inspired the country to build the war machine necessary to defeat Germany, Italy, and Japan. But these words were uttered by a Democrat.

Cheney's statement implying that Americans had better vote for Bush or risk another attack, combined with Attorney General Ashcroft's implication that anyone who criticized Bush was a traitor, add up to the scenario Fulbright warns against in *The Arrogance of Power*. "The most valuable public servant, like the true patriot, is one who gives a higher loyalty to his country's ideals than to its current policy and who therefore is willing to criticize as well as comply" (p. 29). That's a direct refutation of Ashcroft and Cheney as they reflect the "Mitchell mentality" and, once again, a direct refutation of Nixon's cohorts who tried vainly to get John Dean to lie out of loyalty for Nixon rather than loyalty to his country.

Although Fulbright is referring to the Vietnam conflict, his words are totally applicable here. Either Cheney and Ashcroft have not read Fulbright's book, or they don't remember it, or they don't subscribe to its basic truths, at least as far as criticizing the government is concerned. Yet, Republicans criticized the Clinton administration. And, Republican attorney Ken Starr, appointed as "independent prosecutor" leading the investigation into President Clinton's affairs, squandered \$70 million of tax money in a biased inquiry seeking to uncover criminal wrongdoing. Supreme Court Justice Rehnquist continually criticized the Clinton administration throughout its two terms. Perhaps criticizing the Bush administration is the only criticism that's treasonous.

During the Vietnam War, Republicans marketed the "domino theory" to stimulate fear. This theory held that if communism were allowed to win in South Vietnam, then it would win in the next country, and the next, and then, with nations falling like dominoes, it would make its way to our door.

This fear gripped the hearts of Americans for many years. But the theory proved fallacious. As soon as North Vietnam won the war, they went to war with their erstwhile ally, communist China. Yet, hardly any American commentator acknowledged that the domino theory was totally invalid. The media all but ignored the war between North Vietnam and China. Selective journalism

was at work. Republicans in power did not want the public to focus on how invalid conservative-based fears had been promulgated.

Another fear, this one promoted by the Bush administration, was that it would be dangerous to change presidents in the middle of a war. It would be cynical to suggest that the war was started for just such political aims, but that was, for Bush, one fortunate result. It was Kerry, not Bush, who had combat experience and when Kerry said that he would vigorously and capably defend the United States against terrorist attacks, it was credible. Nevertheless, the spin masters were able to sell their fear effectively.

In fact, the United States changed presidents during both World War II and the Vietnam War.

The distinguished conservative writer Adrian Wooldridge, in his book *The Right Nation: Conservative Power in America*, stated that Bush did not win the 2004 presidential election because of fear. It was Bush's stand on education and the economy and other issues, Wooldridge stated on December 12, 2004 (Booktvspan 2) that got Bush re-elected — not fear or conservatism. Yet two minutes later, Wooldridge declared, "The real reason that Bush won was not due to the candidate but due to conservatism." Contradictions such as this call Wooldridge's conclusions into question. It was indeed fear at many levels, fear which the Republican party packaged and marketed with Wal-Mart-like success, that won the election.

Anthony Romero, Executive Director of the American Civil Liberties Union, drew the opposite conclusion to Wooldridge's. Romero charged that Bush has let his people down as a leader; and the government is channeling more and more money into faith-based fundamentalist activities, thereby weakening the United States' Constitution, which was specifically designed to guard against what the Bush administration is doing.

The Bush administration gets away with this crime against the nation, Romero contends, because of fear. "Bush is using fear and war-mongering to erode American liberties," he contended on Bill Moyers' final broadcast for the NOW public television show December 17, 2004. Bush uses fear to cloud issues, to confuse, to hide and deceive. More damaging, Bush uses fear to keep the public from holding himself and his administration accountable.

The Bush administration is creating yet another kind of fear. That fear is not marketed by Bush, but it is created by him. A surprising number of United States citizens left the country as a result of Bush's re-election. Their fear of Bush's "Mitchell mentality" is creating a brain drain. In early December 2004,

more than one major network television newscast did a clip at the Canadian border. They reported that well-off and well-educated citizens were crossing the border with the intent of acquiring Canadian citizenship. It is difficult to know the extent of this exodus, but everyone interviewed confirmed that the cause was Bush's re-election, disillusion with and even fear of Bush policies.

While the newscast sampling was too small to be posited as an accurate reflection of the general trend, the interviews caught a couple of Republican detractors who made such remarks as "Good riddance" and "Don't let the door hit you from behind on your way out." These remarks reflect the very "Mitchell mentality" that drives people away, the anger, intolerance, and disregard for the principles of democracy that so pervades the Bush approach. Where is the spirit of liberty, and the right of every man to be heard?

Perhaps the most powerful fear that motivated voters was fear over the degree or extent to which each candidate was "moral." Bush administration pundits were liberal in their use of the word "moral." Nobody actually said as much, but the fear was propagated that Kerry was somehow less "moral" than Bush, in spite of the fact that Kerry has remained staunchly faithful to his Catholic religion, while Bush has changed his Christian calling at least three times. Bush conveniently overlooked this fact when he repeatedly accused Kerry of changing positions.

The "fear" that maybe Kerry was somehow less "moral" than Bush was possibly the most skillfully crafted of all the false fears, because it relied on inference. When tantalizing hints are dropped and then the public arrives at its "own" conclusions, those conclusions will be deeply rooted.

This fear of a lack of "morality" leads directly into the "religious right." Many fundamentalist factions feed on fear. By aligning himself with the "Christian right," Bush collected a large number of votes, automatically. Bush's religious connections, sympathies and practices are no deeper than Kerry's; in fact, as was already mentioned, Kerry has been more consistent in his faith affiliation than Bush has. Yet a majority of voters, in spite of Kerry's heroism in Vietnam and Bush's spotty record in the Air Force reserve, felt somehow that a vote for Bush was not only a vote for a great patriotic American but a vote for God.

How did this happen? Not by accident, as the next section explains.

3) THE FOLLY OF PRETENSE

The 2004 United States presidential debate contained perhaps the most pretentious lie ever told. Near the end of the debate, George W. Bush blurted out, “I just know how this world works.”

No great king or philosopher or visionary throughout the ages, of any nationality, has ever claimed to know how the world works.

If Bush knows how the world works, where did he get his information? How long has he known? Why didn't he share this vital knowledge during his first term, or while he governed Texas? Is he going to share it now?

And nobody called him on it. If Kerry had said that, Republican spinners would have had a field day. Yet, Democrats chose to ignore it.

As if the claim of being the world's greatest sage is not enough, two other pretenses, both false, have burnished the Bush image. One was the pretense that Bush was a full time military figure — which Kerry actually was, and a decorated one at that. The other was the pretense that Bush is, if not actually God, at least in close alliance with him. Both these pretenses were accepted widely enough to have provoked books to be written about them. One book, *Unfit Commander* by Glenn Smith, is anti-Bush, while the other, *God and George W. Bush* by Paul Kengor, is pro-Bush.

Glenn Smith provides documentation that indicates more than one attempt by somebody to authorize the false claim that George W. Bush was officially an Air Force fighter pilot, when he was actually a reserve pilot with a spotty attendance and qualification record. Whether Bush deliberately indicated that he was an Air Force pilot, or whether he allowed documents to be doctored by others to make that indication, Smith doesn't say. But that pretense itself, in writing, is documented in Smith's book with photo copies of the paperwork.

Bush's publicity appearance on an aircraft carrier, wearing a leather flight jacket, was also disturbing. Fraternizing with flight crews is great for their morale. Smith, however, indicates that President Bush actually pretended to have earned Air Force flight crew status. Smith's accuracy remains to be tested, but his charge appears to be adequately documented. He lists a sufficient paper trail to conclude that Bush “was a man who had dodged the draft, and failed to fulfill his obligations to his country as a young man, attacking the war record of a decorated hero — and getting away with it” (p. 7).

Pretending to be an Air Force fighter pilot is one thing, but pretending to be God is entirely another. During the 2004 summer, many bookstores featured a new book that greeted the eye with the word

“GOD”

in bold title caps, followed a few spaces below in a slightly less bold type,

“George W. Bush.”

In tiny print, between “GOD” and the name “George W. Bush” was the word “and.” (At least it did not come right out and declare “is,” but the implication was clearly there, and it was more than subliminal.) Below this suggestive title is a picture of Bush, his brow slightly wrinkled (in thought, optimists might say; but it also resembles puzzlement) and gazing slightly askew, like a high school photo where the subject affects an aura of worldly wisdom not yet earned. The author, Paul Kengor, has produced a book that should be a boost to his career, whatever its scholarly merits. But, this sort of thing used to be called heresy.

What role did the Bush administration and/or Republican party have in the production of this book? Like the documents suggesting Bush was an Air Force pilot, this publication is unlikely to have appeared without the knowledge and tacit approval of some quite close to Bush himself.

Conning the common people into seeing their leader as a “God” of sorts — of any sort — is how terrorists are recruited and created. With his books about the god-like aspects of Reagan and Bush, Kengor barely avoids plunging into that same pool of destructive propaganda that terrorist leaders teach.

4) THE FOLLY OF THE “RELIGIOUS RIGHT,” WITH ITS HALO OF FUNDAMENTALISM

On June 10, 1797, in drafting a treaty with Libya, John Adams wrote, “The United States is in no sense a Christian nation.”

Once it has been determined that George W. Bush is almost God, a transformation can take place in the minds of his supporters. Any critics or dissenters now become not only treasonous, as Cheney and Ashcroft and other Bush devotees strongly imply, but sinful. This outlook no doubt helps to explain, but not

at all justify, the fact that, according to a White House report issued January 2, 2005, on national news, the United States government gave more than one billion dollars to faith-based groups in 2003. In fact, one of the exclusive brick structures on Jackson Avenue, just a block away from the White House, sports a bronze plaque with the engraving: "Office of Faith-Based and Community Initiatives." Who pays the rent? If that office is paid for by private funds, the government billion-plus has no doubt helped to release those funds for their high-end upscale residence.

Fulbright perhaps put it best: "Once imbued with the idea of a mission, a great nation easily assumes that it has the means as well as the duty to do God's work." It is the height of folly to assume what Bush and significant numbers of the "religious right" want the electorate to assume — that the US should be on a mission to do "God's" work, and that the President should be the leading figure in spreading and using tax dollars to foment a "Christian"-based or "Christian"-defined democracy throughout the world. Fulbright's fear about the American government during the Vietnam War is coming true during the war against Iraq — America is embarking on commitments so far reaching "as to exceed even America's great capacities" (p. 4). Once again, conservatives seem to have learned nothing from the terrible tragedy of the Vietnam War.

Later, Fulbright describes the ideology that includes "the egregious presumption of the true believer that he knows what is best for all men and, knowing what is best, has the right and the duty to force it upon them" (p. 79). He could as well be describing not only Bush's outrageous declaration that he just knows how the world works, but the thoughts of those fundamental Christians who voted for him, firmly believing that Bush was more "moral" than Kerry and is on a special mission for God. Fulbright is echoing the revolutionary communist extremist, but all extremist groups are similar in their blind commitment to an ideology. All will go to almost any extremes to fulfill what they are convinced is their divine destiny, their special calling endorsed by their God.

The pretense of holding a special affinity with God fits right in with Bush's wooing and winning the "religious right." The question remains, however, what is the "religious right"? Does it differ from the "Christian right?" The double meaning of "right" as "correct" and "politically conservative" is presumably coincidental (albeit convenient for those who are in it), but is it applicable? What does religious fundamentalism have to do with the picture? How do conservatism and fundamentalism serve each other?

True, some of the Muslim terrorists that so frighten America are religious fundamentalists. They are also conservative. So much so that Taliban leaders in Afghanistan wanted to return to the culture of the 14th century. Fundamentalist terrorists share the same preference for conservatism that fundamentalist American voters demonstrated when they put Bush back in office. Conservative as it is, religious fundamentalism itself, whether “Christian” or “Muslim,” or “Jewish,” is a form of extremism. These intertwining and shifting terms need some kind of resolution. Some important clarifications and historical perspectives need to be made in order to understand, and hopefully offset, a president’s appeal to fundamental voters.

One of the first clarifications to make is that between the “religious right” and the “Christian right.” The “religious right” is usually truncated in the United States to mean the “Christian right,” with its haunting halo of fundamentalism. But an important distinction needs to be made.

Like existentialism and “secular humanism,” the “religious right” defies definition. We can only describe it. The “religious right” is not a denomination, and most certainly not a Protestant or even a Christian denomination. There is no “religious right” meeting going on anywhere; if there were, it would be fraught with trouble. Muslim fundamentalists can make up a “religious right” just as well as Christian fundamentalists or Jewish fundamentalists. In addition, many members of Christian fundamentalist groups feud fiercely among themselves, as do many members of Muslim or Jewish fundamentalist groups.

The religious right violates the rights of all Americans. One of the greatest fallacies of the “Christian right” is their belief that their nation is founded upon the word of God. In spite of John Adams’ insistence that the United States is in no sense a Christian nation, Christian “rightists” continue cramming that word and term and concept of “God” where it clearly does not belong. They are either ignorant of this nation’s heritage or they are defiantly opposed to it.

The concept of “Allah” does have its place in the Muslim terrorist fundamentalists’ view of politics, because in the Muslim world there was never a separation between church and state. But, nowhere in the founding documents upon which the United States stands does “God” (as understood by the religious right) appear. In fact, there is conspicuous wording to exclude that concept. The very few references to “God” and “Creator” are careful to avoid indicating a particular religion. Note the phrase, “They are endowed by their creator with certain inalienable right.”

True, the opening sentence of the *Constitution* refers to “the Laws of nature and of Nature’s God,” but it expressly does NOT say “the laws of GOD.” Here’s part of the inscription in the rotunda from Franklin Delano Roosevelt:

A nation must believe in three things.

It must believe in the past.

It must believe in the future.

It must, above all, believe in the capacity of its own people to learn from the past so that so that they can gain in judgment in creating their own future.

Not a word about believing in God.

The inscription from Chief Justice Marshall in that same rotunda is also indicative: “The people made the Constitution, and the people can unmake it. It is the creature of their will and lives only by their will.”

Where, then, has the “Christian right” concocted the right to infuse their concept of “God” so profusely into the nation’s process? Perhaps from our coinage’s notorious motto, “In God We Trust.” Perhaps from the phrase injected into the Pledge of Allegiance by Sen. Joseph McCarthy. Still, that allegiance is pledged to the flag and the nation for which it stands, not to God. One thing is certain. Any reference to God in the fundamentalist sense is actually un-American and goes against the entire stream of intent and belief and design of the United States.

Muslim and Christian and Jewish fundamentalists alike tend to occupy the extreme conservative “right” side of political thinking and each is convinced they and only they are correct in that thinking. This “rightist” thinking readily spills over into the Bush administration. That Ashcroft and Cheney would publicly suggest that any dissent against President Bush is treason is not a new phenomenon. Much the same attitude prevailed under Nixon and Reagan.

Many Bush voters no doubt overlooked the similarities between Muslim fundamentalists, their enemies, and Christian fundamentalists. Those voters most likely consider themselves staunch Americans and may never have thought that they stand beside equally staunch Muslim fundamentalists in their commitment to their “religious right.” Most Muslim fundamentalists are not terrorists, of course; but some Muslim terrorists are religious fundamentalists. So, the category of the “religious right” must include Muslim terrorists alongside the “Christian right,” the sworn enemy of Muslim terrorism.

Apart from the “religious right,” the concept of the “Christian right” remains vague and open to interpretation. The word “Christian” signifies a belief

in Jesus Christ. But, even with that, there are probably few principles on which they would agree. Most of them seem to believe that they alone are “saved” and going to heaven, and most of them seem to be “anti-abortion” and “anti-gay” and (although some might not admit it) anti-women’s rights. But introduce the issues that politics has to address: the economy, the environment, education, war, jurisprudence, and many other topics and the Christian right disintegrates into a panoply of varying perspectives.

Imagine trying to persuade the different prominent leaders of the Christian right (Jerry Falwell, Billy Graham, Pat Robertson, Jimmy Swaggert, Jimmy and Tammy Baker, and Oral Roberts, et al.) to appear on the same stage. People have tried. And even if they did appear together, where would Catholic conservatives be, and other Protestant conservatives, and the Mormons, and others? This is hardly the picture of a united forum for electing a president.

The limited discussion of the “Christian right” that space allows here must produce more of a collage than a portrait. There is no beginning and certainly no end to the process. Fundamentalism, like conservatism, has plagued the world from both national and international perspectives. Some religious people simply cannot seem to keep their personal beliefs and prejudices out of their own or others’ politics.

The “moral” label that is now widely recognized as having gotten Bush re-elected is one of those slippery slopes of deception Republicans remain so adept at engineering. To understand why Bush’s stance was never more “moral” than Kerry’s, we need in part to re-examine certain fundamentals of fundamentalism along with Bush II policies.

The notion of the “moral majority” came up under Nixon. Jerry Falwell and Pat Robertson and Billy Graham, each in his own way and each appealing to a different segment of the “audience,” set themselves up as icons of morality for the political right. They were never a unit, though, and never appeared together. Robertson remains a master at disguising his religio-political propaganda as a disinterested professional newscast. Robertson’s “Law of Reciprocity” also bears mention. You give to us, he said once again on his November 8, 2004 broadcast, “and it will be given unto you.” He doesn’t say who’s going to give it or where it’s coming from. Rather like Bush in that way. His black magic formulas allure the innocent (and all too often, poor) viewer with confused confirmations that sound like Bush talking about social security and *No Child Left Behind* (NCLB). What does this have to do with the Republican right that embraces Bush? Not

long ago Pat Robertson was actually on the Republican party's ticket for President of the United States!

More than one political analyst back then stated that the "moral majority" was neither moral nor in the majority. Nevertheless, that term was used as a ploy that attracted a disturbing number of votes.

Republican pundits used the word "moral" in the same way during the 2004 presidential election, in a process of deliberate obfuscation. They create an atmosphere of confusion and then throw in a word that gives the illusion of clarifying something. That word is "moral."

There is, of course, much more to the interpretation of "moral." The term is used as if it applies only to the individual, and not to his actions, say, how he leads the nation or conducts an unjust war. But the man cannot be separated from what he does.

Is it "moral," for instance, to wage what many ordained and well-respected Christian ministers have concluded is an unjust war? And then to use that very war to incite fear, in order to win votes?

Is it "moral" to conduct such a war without consulting an international coalition; and then to lie, pretending that a coalition is involved, when clearly the only foreign representatives joining in are those who have been strong-armed and cannot afford to displease the superpower, and whose views are ignored, in any case?

Is it "moral" to squander the nation's financial resources on financing such a war? Under Bush's watch, the United States has worked its way into the most dangerous and dire economic prospect ever. Laurence Kotlikoff and Scott Burns show that the economic outlook for the United States is worse now than for both Brazil and Argentina. Kotlikoff says that Bush has put the nation in "much worse shape than people know about."

If sabotaging the economy in the name of war can be considered a measure of immorality — then Leon Panetta's opinion is also relevant. Panetta, White House Chief of Staff for President Clinton, stated on September 8, 2004, over a National Public Radio broadcast, that President Bush has accrued the "worst deficit record of any president in modern history." Bush's treatment of the economy, the loss of jobs, his refusal to even comment on the fact that *No Child Left Behind* has not been funded, his threat to the social security system, his plunging the country into what many experts see as disastrous debt — all this is not moral but immoral.

A brief perspective of selected instances of the Christian right in action will show just how much damage that kind of narrow and bigoted thinking has done, and how inappropriate it is for a United States president to align himself so closely with that “right.”

The religious right which claimed victory in Bush’s election is that same religious right that has produced Jimmy Swaggert, Jimmy and Tammy Baker, Billy James Hargis, A. A. Allen, Marjo, and others who have been proven to be hypocritical, fraudulent and outright criminal. Swaggert was prosecuted for soliciting prostitutes. Jimmy Baker went to jail for absconding with millions of dollars. After years and years of exploitation of gullible television viewers by these “televangelists,” the Oklahoma State legislature was finally forced to pass legislation to rein in these “fundraisers” in 1980. It was principally because of atrocities committed by “cousin” Billy James Hargis.

Twenty years ago William Edelen, an ordained theologian and a nationally syndicated newspaper columnist, wrote an article titled “Fundamentalists Are Too Ignorant to Debate.” Soon after that article appeared, many “Christian right” influenced newspapers dropped Edelen’s column. Edelen proves that Christian fundamentalists do not actually know their Bible. (Without profound scholarship in ancient Greek, Latin, Hebrew, or Aramaic, or all of the above, one cannot have read anything more than a translation of a translation of the Bible, with all the inevitable distortions that entails. Even the Hebrew tribal leaders complained about the mis-translating that went on.) When Edelen pointed this out to a fundamentalist preacher he was debating on television, the preacher hit him in the face with his Bible.

One of Edelen’s points is that fundamentalists can’t take the truth. They have to clothe their beliefs in myth and reinforce each other constantly by the type of spectacle and occasional hysteria shown on so-called “Christian” television programs and entire networks.

In any event, it is inappropriate for a candidate for the Presidency to align himself with any particular “religious” movement, and use their votes to win an office in which he is supposed to represent the entire nation. In addition to weakening the *Constitution*, such a basis for voting holds the citizenry hostage to religious views that spill damagingly into the national agenda, from social programs to international relations.

The religious right also seeks to impose their sensibilities on the rest of society in the way they approach the phrase “under God” in the Pledge of Allegiance. The “Christian Right” overlooks the fact that the phrase was added

under extremist pressure from the later discredited Sen. McCarthy, and is a danger to the integrity of the US Constitution. Such is the affiliation that helped put Bush back into office.

Billy Graham represents a clear example of the righteous feeling the Christian right have about their right to plunge right into right-wing politics. In the late sixties and early seventies, Graham was strategically placed right beside President Nixon in numerous televised confrontations with Vietnam War protestors and demonstrations. Graham allowed himself to become such a Nixon icon that anti-war demonstrators began demonstrating at Graham's religious rallies. One, at the University of Tennessee, became particularly ugly, but time and space here do not allow details. Graham made it nationally known that he was standing at Nixon's side through it all. (Then Watergate broke, and Graham suddenly disappeared. A preacher preaches, while a minister ministers. When Nixon needed ministering to, Graham was out of the picture.)

Here, the logical fallacy of "transfer" was being used. It works, because it is usually not apparent to those on whom it is being used. Graham's religiosity was automatically transferred to Nixon's war policies, much as righteousness is today being borrowed from the religious right and transferred to Bush's war with Iraq.

In the summer of 2004, the Vatican issued a decree declaring feminist attitudes and statements and actions to be subversive to the word of God. On this and many other points, most fundamentalists, Christians or not, would find themselves strongly in alignment.

Next, we touch on the question of "abortion." Kerry did not "approve" of abortion, but the suggestion that he did so was successfully promoted by Republican pundits, no doubt convincing many to vote for Bush despite their preference for Kerry's stand on the environment or the economy or other issues. Far too many voters decide on the basis of a single issue.

On the November 3, 2004 CBS "Early Show," Diane Salvatore, of *The Ladies Home Journal*, declared that the "Republicans ran a theological campaign; Democrats ran a rational campaign." Later, Melinda Henneberger said that women voted against their own economic interests because the Republicans so successfully marketed the inaccurate impression that Kerry approved of abortion and gay marriage.

Christian fundamentalism and Muslim fundamentalism, and the extreme "right" wing of political thinking, are based on intolerance, ignorance, fear, and

the conviction that anyone who disagrees is not only wrong but is an enemy to be defeated at all cost.

Fulbright once again best describes the political character of the extreme religious right:

Once in power, the extremists tend to abandon or betray whatever previous interest they had in liberties and legalities as they proceed to carry out their programs, or try to, in an authoritarian manner.... The extremists also tend to be ascetic and puritanical. When the Bolsheviks first came to power in Russia, people in the West predicted the reign of license and debauchery, but just like the Chinese today, the Bolsheviks turned out to be as prudish and aggressively virtuous as seventeenth-century Calvinists. Even today Russia is surely one of the world's most puritanical societies (p. 75).

Fulbright has written, here, a description that exposes telling similarities between the “Christian right” and people of the “religious right” it presumes to oppose.

This has been a brief summary of the force of extremism, which was the most influential in electing Bush, by a hair, President of the United States, according to political analysts on November 3, 2004. Instead of electing a wise and thoughtful leader, they chose a man who allies himself closely with a narrow and myopic group of religious fundamentalists.

Psychologists have known for a century that people can convince themselves of their own fantasies. Historians have recently theorized that Hitler, bolstered by methamphetamines, convinced himself of his own invincibility and thus lost his faculty of judgment. False images of grandeur, of military prowess, and of divine sanction can do that.

5) THE FOLLY OF PRIDE

Pride tends to quickly and insidiously slide into arrogance, impairing people's judgment.

Fulbright's analyses applying to the Vietnam War apply equally to Bush's War against Iraq. Neither Vietnam nor Iraq declared war on the United States. Nor did Iraq have any connection with the terrorists who attacked the United States.

Why, then, did Bush declare war on Iraq? Fulbright suggests that: “The causes and consequences of war may have more to do with pathology than with politics, more to do with irrational pressures of pride and pain than with rational calculations of advantage and profit” (p. 7). Since clear causes or provocations

for declaring war against Iraq have never been produced, it is hard to avoid thinking that pride, or false pride, played a part: Bush's need to show himself as a "strong" leader, and a fear that the world sees him otherwise.

According to the ethics of golden age Greece, upon which much of American thinking is built (following the lead of Thomas Jefferson), the greatest of follies is pride. Pride is the crack, the tragic flaw, of Achilles, of Menelaus, and particularly of Agamemnon. The great Greek dramatist Aeschylus suggests that Agamemnon is invulnerable until he commits the sin of pride before the gods

The concept of pride, and particularly its application, remains a puzzle. What role do fear and extremism play in the negative aspect of pride? The same dichotomy applies to the word "honor." Who gets to decide for another person what is "honorable" or worthy of pride, and what is not? Why, some people are even "proud of their humility."

A Protestant minister in the conservative Republican state of Arizona published an essay in the *Verde Valley News* on October 24, 2004 (p. 4A), listing three Christian traditions with regard to war, as reflected in the Bible. None of these traditions, he concludes, justifies the "war" that Bush declared against Iraq.

1) "*Christian pacifism.*" Jesus is quoted as instructing his followers to "Love your enemies and pray for those who persecute you" (Matt. 5:38-39, 43-44).

2) *The "Crusade Tradition."* The pastor cites the stories from the *Old Testament* that have been used to justify genocide for God; he then cites the abuses of the Crusades and other religious wars of the Reformation. He ends with a striking observation: "the practice of genocide, despite its support in the Bible, has been rejected by Christians and non-Christians alike."

3) *The "Just War Tradition"* finds its roots in Mark 13:7 and Romans 13:1-7, which attempt to define the circumstances under which it is permissible to "bear the sword" to oppose evil. The difficulty, of course, is in deciding who gets to say what is evil. Many religious authorities say it is justifiable to defend oneself and one's family against unprovoked aggression. Many Americans, apparently, do not extend this view to others who are under attack.

The US pre-emptive invasion of Iraq is in no way a "just" war; that is why the Pope and major Protestant leaders have opposed it.

It would seem that President Bush's pride in this war, which he has openly expressed on many occasions, has slid well into the distorted realm of arrogance.

In another remark, Fulbright cites "The good deed above all others that Americans feel qualified to perform ... the teaching of democracy." Bush has said many times that he wants to teach democracy to the rest of the world. But, Ful-

bright adds, “It is time for us to reconsider our teaching methods. Maybe we are not really cut out for the job of spreading the gospel of democracy” (p. 14).

One of the best liked and most respected figures in the Bush administration has been Gen. Colin Powell. As Secretary of State, Powell walked as careful and skillful a line between Bush’s arrogance and the needs of world diplomacy as if he were walking through a minefield. In his Army retirement speech of September 23, 1993, Powell called attention to the fact that military doctrines and strategies must be constantly modified, and modified within the framework of a coalition. We should not give in to outside pressures, Powell added, but we should certainly consider the needs and situations of others besides ourselves. This does not sound like arrogance, but realistic policy. That Powell was able to reconcile his diplomatic approach with Bush’s arrogance is a mark of Powell’s ability. He was not, however, retained for the second term.

6) THE FOLLY OF “NO CHILD LEFT BEHIND”

On March 2, 2005, the governor of Utah rebuked the federal version of *No Child Left Behind* program. President Bush’s *No Child Left Behind* program has had a dehumanizing rather than a rehumanizing effect on children. There is no mention of a child’s well-being or spiritual (not in the religious sense) enrichment being rewarded. There is no mention of a safe, wholesome, non-violent setting being rewarded. The NCLB program reduces children to statistics that are interpreted as justifying simplistic governmental regulations.

There is no innovation on Bush II’s part, nor any workable plan; only the conservative enslavement to Ronald Reagan’s “stay the course” ideal. The NCLB program is a spin-off of programs imposed by Reagan and Bush I — programs which educators questioned from their beginnings. Bush II has repeated and magnified the mistakes of those programs.

One major mistake lies in the federal government taking over the task of educating children, elbowing out professional educators who have spent their lives developing their specialized knowledge. The *No Child Left Behind* program has empowered special interest and partisan politicians to overrule professionally trained and experienced educators. The people who put the NCLB program together are politically motivated.

In addition, the NCLB perpetuates the historic and fierce wrestling match between states and federal rights. Such a topic deserves a book for itself. It is ironic that Republicans, who have traditionally championed states' rights over federal infringement of rights — have caved in completely, allowing the Bush II federal government to inflict the tenets of the NCLB on every school.

A quote from Chester E. Finn's article "On Leaving No Child Behind" (from *The Public Interest*, No. 157, Fall 2004) states that

NCLB's most problematic feature is its imposition of blunt, uniform remedies for perceived institutional failings across varied schools and dissimilar communities. Setting aside the contentious but theoretical question of whether fixing broken schools and liberating kids from them is a proper federal role in K-12 education, we must reckon with the fact that it is damnably difficult to do, at least so long as Washington relies on the self-same state and local agencies that presided over these schools to effect a major transformation of them. (41)

In Hilary Clinton's *It Takes a Village*, she talks about the holistic scenario, complete with the community awareness, its impact on the child, and the sense of happiness, fulfillment, growth, achievement, and approval children need. The NCLB program not only fails to address these aspects of child nurturing but penalizes schools that do address those needs, if those schools should not measure up to such artificial criterion as teacher certification, achievement levels, and test scores.

On January 13, 2005, the Leadership for Educational Entrepreneurs sponsored a national meeting titled "No Child Left Behind: What Now?" in Washington D.C. This meeting was billed as a "national symposium" and represented by leading school personnel.

One of the many points made by professional educators was that no research has shown that a given certification makes for a better teacher. One can hardly define what is meant by certification, in the first place.

Schools are to be penalized if they do not meet the government's required numbers, even if they do provide for many children their first sense of well-being, their first sense of achievement, their first love of learning, their first ability to focus for five minutes. NCLB policies are committed to numbers and data, not to the well being of the child.

Schools that have a high population of recent immigrants know that it takes more than the two to three years allowed by NCLB to learn English. Substantial research for years has ascertained that the requirement is six to seven years. NCLB would cut funding for schools that miss this mark. A speaker at the symposium offered, as if in analogy, the thought that some workers in India learn

English very quickly when they seek to obtain a job that is being “outsourced” by US corporations. (Notice the business party rearing its head.) Never mind how many were unable to get the job because they were unable to learn that quickly, and never mind that to learn a few commands and procedural phrases is a somewhat different task from absorbing the social language and graces and cultural assumptions required for going to school and integrating oneself into a nation.

The “Elementary and Secondary Education Act of 1965” appears to be a standard from which a line of other educational initiatives or programs developed, culminating in the NCLB program. Two other conspicuous educational precursors would be Ronald Reagan’s “Four Educational Targets” and Bush I’s *America 2000* program, from which Clinton apparently designed his “Goals 2000”. These educational “programs,” mandated by United States presidents, are vague, arbitrary, and unrealistic. The NCLB, however, goes farther and is actually damaging to students and schools, particularly with its unrealistic and expensive demands upon ELL (or EFL or ESL) and special ed students. In addition, the “penalizing” system is antagonistic and counter-productive, especially in requiring programs and actions that schools simply cannot afford, as already stated.

In addition Bush I’s *America 2000*, and Bush II’s *No Child Left Behind* program reinforce the false concept that schools are to be blamed for parental failure. Children who fail and/or misbehave are now the school’s fault; and it’s the schools’ job to fix things — in addition to feeding, in many cases clothing, and transporting those children.

Health care also has an impact on education. The health of children and their immediate families directly affects their ability to learn, and their ability to attend school in the first place. Schools must not be penalized for shortcomings of other systems.

Reagan’s four “targets.” In September 1984, President Reagan presented four educational targets to be reached by public schools by 1990:

1. To raise the high school graduation limit rate by more than 90%.
2. To raise scores on college admission tests above the 1965 average.
3. To make teaching salaries competitive with those for entry level college graduates in business and engineering.

4. To stiffen high school graduation requirements. (Source: Dr. Paul Staskey, Professor of Education, Northern Arizona University)

Reagan presented this proposal to 8 governors, 10 members of Congress, 150 state legislators, about 30 chief state school administrators, and about 60 college and university presidents. It is difficult to know how many of them recognized Reagan's goals as idealism bereft of reality. It is not likely that any of them would have said as much to the President of the United States.

Bush I's America 2000. Under the Bush I administration, these unrealistic educational demands metamorphosed into *America 2000: an Education Strategy*.

1. All children in the United States will start school ready to learn.

2. The high school graduation rate will increase to at least 90%.

3. American students will leave grades four, eight, and twelve having demonstrated competency in challenging subject matter including English, mathematics, science, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy.

4. US students will be first in the world in science and mathematics achievement.

5. Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

6. Every school in the US will be free of drugs and violence and will offer a disciplined environment conducive to learning (Staskey).

Once again, nothing about spiritual enrichment, a sense of achievement, a feeling of happiness about the ability to learn and grow in a positive direction are lacking.

Other tenets of this plan are equally problematic. How can schools possibly assure that a child will start school ready to learn if they don't have any chance to work with the child until the child arrives at school? This is a fine idea, but it is not the school's fault if its students include children with special needs, recent immigrants, and crack babies.

Then comes the demand that "every school in America will ensure that all students learn to use their minds well." There is no way to define or measure that one.

Years ago, a delegation of Japanese educators visited the United States with the express purpose of examining how US schools were so successful in getting children to think innovatively and imaginatively, rather than to memorize data the score high on tests. The Japanese recognized the value of education beyond the data and high scores.

“*America 2000*” was the feature article of the November 1991 *Phi Delta Kappan*, a leading educational journal, with the sub-title “A Bumpy Ride on Four Trains.” The by-line pointed out that: “The origins of *America 2000* are not available to the public.” The author, Harold Howe, Lecturer Emeritus of the Harvard Graduate School of Education, asks, “Who worked on *America 2000*? Which ideas were considered and which rejected? On what research basis were the major recommendations adopted? What was the process by which the President of the United States reached the decision to support it?” Howe’s conclusions that follow these questions are even more pointed:

It is important to have answers to such questions when the full force of the office of the President is thrown behind a particular set of strategies with national ramifications. It is even more important when the strategies proposed are judged by many thoughtful educators and analysts of public education to be inadequate or unwise. (p. 193)

Howe’s questions have been amplified rather than resolved by NCLB.

The April 1992 *Phi Delta Kappan* featured an article by D. Stanley Eitzen titled, “Problem Students: The Sociocultural Roots.” He noted that one must understand the sociocultural context of the family of social problems in order to understand problem students and how to help them. Eitzen considers the changing economy, the changing family, and the changing government policy, among other important aspects. None of these complexities seems to find its way into either *America 2000* or NCLB.

A front-page article in the July 1992 *CDF Reports* (the monthly newsletter of the Children’s Defense Fund) reads, “Poor children denied access to good quality child care.” Why? Because of the government’s failure to provide health care. Reagan’s Family Support Act of 1988, stymied parental choice “by inadequate health and safety protections for FAS child care and unrealistically low payments for care” (p. 1).

Bush II has created the same kind of problem for today. The Clinton administration did manage to present a relatively respectable health care program, in spite of continual conservative opposition and even sabotage — at least, one that formed a foundation. Bush II has dismantled Clinton’s health care program. A report from Peter Jennings on ABC News of January 11, 2005 shows that United States health care is in a “dismal” state, while over a billion dollars was spent to find weapons in Iraq that did not exist.

Bush II’s NCLB. The NCLB program is so contradictory, so filled with double-talk, that it is essentially impossible to understand, much less

implement. The only real achievement is to intimidate schools, to change their teaching direction to data-directed rather than student-directed curricula, and to penalize schools that do not deserve to be penalized.

Finn calls the NCLB a document of “sprawling 1,100 plus pages” that “radically overhaul the federal role in education, rewrite the rules, and reassign power — including more to Washington than ever before.” A rather ironic position for a president whose party squawks most about big federal government.

And, states may require schools to drag themselves through this morass every year. Arizona’s Department of Education homepage on NCLB, for instance, states, “According to the Business Rules sent to the LEA [Local Educational Agency — another fancy name for schools] from ADE [Arizona Education Department] Grants Management Office, funds generally are granted for one fiscal year.”

One of the biggest problems of the NCLB program is the fact that it is continually being revised and updated. It appears the changes and revisions and alterations are continually going on. The program is bombarded with new initiatives, new sub-programs, new testing procedures. The January 13, 2005, *Washington Post* contained a story, “‘No Child’ Expansion Is Outlined.” (p. A 19) Why expansion? Wasn’t it good enough the first or second time?

Already the NCLB program has suffered the invasion of several supplementary educational “initiatives” or “impulses.” This invasion becomes apparent by a quick look at *The Achiever*, described as “the US Department of Education’s biweekly bulletin on *No Child Left Behind*, the historic, bipartisan education reform law signed by President Bush in January 2002.”

The October 1, 2004, *Achiever* begins, “Building on the reforms of the *No Child Left Behind Act of 2001*, President Bush revealed last month his *new* [italics mine] education plan, which includes...” and a list of new items then rolls out, much repetitive in many ways of the original NCLB plan.

Has the NCLB plan been superseded, already? Does that mean that the original NCLB plan wasn’t any good?

Integrity in education has been shouldered aside by the impulse for gimmickry and sloganism and high sounding labels. The NCLB program flouts the knowledge of professional educators, focusing only on test scores. What about the arts, and other forms of learning?

Penalizing schools. In its penalty system, the NCLB is not only insulting but damaging to schools. A statement near the end of the October 1, 2004, *Achiever*

states just one of the penalties that the NCLB imposes on “sub-standard” schools:

Under *No Child Left Behind* (NCLB), school districts with Title I schools that have not made adequate yearly progress for at least two consecutive years and thus are deemed to be “in need of improvement” must allow parents to move their child to schools that are meeting state standards; districts must also provide transportation for these students, subject to certain cost limits.

What is “adequate yearly progress”? Who determines when improvement is needed, or when it has been accomplished? Test scores are easy to impose but they obscure the reality.

Schools labeled as “in need of improvement” may not have received adequate funding in the first place. Schools may have difficulty paying teachers a competitive salary or even getting teachers to come to their region; they may be struggling with a huge immigrant population that skews test results; they may have to spend much of their energy simply creating a safe and non-violent environment. Arguably, schools “in need of improvement” should actually get more money. Bush’s NCLB program is guilty of hurting schools that are already hurting, and helping those that do not need as much help.

Finally, the school bears the cost of transportation. That penalizes rural schools.

An administrator of a large school district (who wishes to remain anonymous) wrote to me in November 2004, describing the effect of the NCLB program on the district’s educational process:

We are committed to a quality education for all students. It [NCLB] has hindered in that it put an immense amount of stress on the staff to make AYP [average yearly progress]. The CSAP is so high stakes, that it put other assessment and indicators out of perspective. Our curriculum has been narrowed to state standards. We very seldom follow kids’ interests, because of the state standards that students must master. I personally feel that the expectations for ELL students are unrealistic. It takes a child 3-5 years to learn a new language. How can it be expected that they be proficient on the CSAP after 2 years?

The “measurement” or “rating” system. What happens when a school reaches the top of the rating system? Is it expected to go even “higher”?

A strong undercurrent of resentment. Politicians are telling schools how to teach, and are judging how well they are teaching. They simply do not have the qualifications to do so.

Then there’s always the crucial question of funding. As Sen. Kerry said during the first presidential debate, federal funding for schools to meet the demands of NCLB has simply not been there. Bush says the opposite. Schools are

more and more pressured to pay for teacher credentials and newly mandated programs. President Bush has been quoted for years, now, saying how the government has paid for this — but that is not how the schools see it.

Bush says, “We’re giving schools and parents the tools they need to meet [raised student expectation].” Not exactly. The tools are already there, and have been there for years. He’s increasing the application of those tools by requiring schools to overload their already full dockets and also to pay for more certifications of teachers and more programs to be put in place before any federal money arrives to pay for these additions. The least the President could do is to state that no program is to be in place until federal money has arrived to pay for that placement.

In a note sent to schools from the government education office in Washington, in December 2004, a special education reform bill was announced, with excerpts from President Bush’s remarks at his signing of the Individuals with Disabilities Education Improvement Act (H.R. 1350). Bush’s wording once again reflects more than a few difficulties. Bush says, “This law ensures that students with disabilities will have special education teachers with the skills and training to teach special education and their subject area.” But special education teachers were already in the schools. The law has required this for years, long before Bush took office. What is meant by “special education teachers with the skills and training to teach special education and their subject area”? They have those skills, or they would not have been hired.

“We’ll make sure that parents and schools can change a student’s educational program to better meet their needs, without having to attend unnecessary meetings or complete unnecessary paperwork.” Schools have been doing this for decades. But, who decides which meetings are necessary and which unnecessary? The parent is certainly consulted. But the paperwork is already prescribed by law and, if not properly completed and filed, subjects the schools to penalties already clearly on the books. Once again, Bush is pandering to the parent at the expense of the school and disrespect for the teacher.

The next statement illustrates this pandering more clearly. “We trust the local folks to meet high standards for all our kids.” “Folks” is, of course, a colloquial and deliberately loaded word used here establish a false sense of accord with the parent. Who are the “local folks”? Parents? Teachers? Both? Can’t a parent also be a teacher, and vice versa? Rarely does a parent want to accept a negative report about a child by a teacher. And yet, teachers must have the autonomy to make objective reports, negative or not. Bush’s kind of pandering to

the “local folks” undermines the ability of teachers and administrators to make objective reports.

Finally, Bush contends that his creation of “opportunities for parents and teacher to resolve problems early” makes the system “less litigious.” Not so. The NCLB contains an element of paranoia that actually encourages parents to sue schools more readily and casts a pall of apprehension of fear over all schools. But with our schools, why even go there? At a time when Bush is trying to create a less litigious aura for physicians and businesses, he is creating a more litigious aura for schools, putting the suggestion out there if even in a negative way.

We should first of all consult the right people — our educators instead of politicians. We should then measure the right criteria — a child’s growth rather than the accumulation of data. We should also allow states more flexibility. What criteria should the NCLB be using to measure educational success? How do we measure child growth? Here is a summary of Dr. Maria Montessori’s recommendations, from an article in the Fall 2004 *Public School Montessori*, by Annie C. Nelson:

1. Every child has access to health care.

Guarantee health care for children by creating Medicare style coverage, beginning at birth.

2. Every child has access to quality, affordable child care.

*Expand quality early childhood development services.
Fully fund and improve the quality of child care.*

3. Every child’s working parents have the resources and support they need to nurture their family.

*Make the \$1,000 Child Tax Credit fully refundable.
Increase and make refundable the Dependent Care Tax Credit.
Expand the Earned Income tax Credit.*

4. All children feel safe in their home.

*Increase assistance to states to expand and improve the supply of affordable housing.
Encourage effective approaches to prevent and treat domestic violence, alcohol and drug abuse, and mental health problems in families.*

These are policies the educator community would agree on far more readily than the artificial and impractical stipulations of NCLB.

Another insidious movement can be seen in the charter school movement. Arizona was one of the first states to adopt charter schools, and now has more

charter schools than any other state. That is because the state pays 20% less to charter schools than they pay to regular schools.

The Saturday, February 9, 2005, *Arizona Republic* opened with this message:

Arizona would need to spend an additional \$210 million a year to help students overcome language barriers and get a decent education, according to a court-ordered study released Friday.

The report, which was required as part of a federal court order against Arizona, showed that the state should spend about \$1200 more on each of the 175,000 students called English-language learners....The news could be a blow for lawmakers grappling with a state budget deficit.

The story proceeds to quote State Representative Russell Pearce, a Mesa Republican who chairs one of the House appropriations committees, as saying, "Those numbers mean nothing to me." Pearce continues with the expected conservative diatribe that "We have to stand up to the courts when they are wrong."

The numbers should mean even more, however. Why did a federal court find it necessary to conduct a special study against Arizona in the first place? Pearce appears to be knowingly supporting a situation in which the schools are severely underfunded, and then attacking the courts that try to correct the situation. Unfortunately, such scenes are repeated with Republican, and not incidentally conservative, state representatives throughout the nation. The problems with education actually are far more profound than a confused mélange of NCLB policies can begin to address.

There is a view that millions of dollars in foundation grants are available to help schools, and that if the schools can't find the money, that's the school's fault. In fact, such funding is available only to certain types of schools, in certain locations, for certain types of programs, and may not meet the school's basic needs even if it is in the right state. Funding basic education is not the job of private foundations.

In its concern for data, and problematic selective data rather than for child well being, in its obsession with test results rather than with child growth, in its call for results that are unrealistic (at least for ELL students), and in its piling on additional expenses it does not pay for, Bush's NCLB program is a dismal failure. It is a prime example of a maneuver by opportunistic, short-term politicians.

The last 30 years of governmental interference in education illustrate that the NCLB program cannot be revised. It needs to be cancelled, erased, wiped off the books, trashed, to save many schools from going broke. Then let our nation's schools return to their previous flow, with help rather than hindrance from the

federal government, guided by professional educators, who are indeed ready and willing, instead of political appointees.

7) THE FOLLY OF NEGLECT

The Bush administration is guilty of omission as well as commission. Existing policies always stand out as visible targets for scrutiny, praise, and/or criticism. More scrutiny is required, however, to spot what is not being done that needs to be done.

Many issues exist that are not listed here. Among them are sex education, legalizing drugs (which even the arch-conservative Joseph Alsop said years ago was the only solution), regulating television commercials (both in terms of time and content), regulating phone and banking services (which Reagan deregulated), toxic and nuclear waste disposal, the profit-oriented food industry — these all have egregious and long-term effects. In each of these cases, the Bush administration has been guilty of “Neglect of Duty,” as the military might write it up.

Even more important cases of neglect are listed below, ending with a neglect that embraces them all, *Neglect of America’s Intellect*.

Neglect of the environment. Republican administrations (especially under James Watt, as Ronald Reagan’s Secretary of the Interior) have traditionally seen the nation’s priceless and irreplaceable natural treasures and environmental legacy as a resource to be exploited by corporations rather than preserved for the enjoyment of future generations. Bush continues in that mindset. Profiteers of all denominations, e.g. oil, timber, mining, cattle ranchers and the “recreation” industry, benefit from what are essentially federal welfare programs. For more details about the destruction of the Colorado River, see Philip Fradkin’s *A River No More*. For documentation about the destruction of western grazing grounds and national forests, see Lynn Jacob’s *The Waste of the West*. For documentation and details about the poisoning of Lake Powell, see Standiford, Pottier, and Kidd’s *Lake Powell Research Project Bulletin*, # 1, June 1973, published under the auspices of the National Science Foundation. For a comprehensive account of US political exploitation and hypocrisy of the entire West, see Marc Reisner’s irrepresible *Cadillac Desert*.

Neglect of alternative energy sources and building materials. Scientists and even political and military analysts are concerned that dependence

upon foreign oil places the nation in a position of weakness. And yet George W. Bush has stated that he is opposed to alternative energy sources. How does that square with homeland security?

There are a few synthetic building materials on the market, but they have been developed because of commercial motivations. Government can lead in developing alternative building materials alongside alternative energy sources. Those materials can make just as much money as wood, which should speak to Republican motivations, as well as help preserve the environment.

Neglect to address the exploding world population. Now at 6 billion! Thomas Malthus warned, as early as 1798 (*An Essay on the Principle of Population*) that human population was outstripping the earth's ability to provide sufficient food.

Population tends to increase faster than goods can be produced for its needs, according to Malthus. Those goods include not only food and water and shelter but clothing and space. Hence, living standards are suppressed to bare subsistence levels for all except the powerful and already wealthy. And this suppression is paramount in America. The current economic "softness" is not a depression, but a suppression.

Neglect of negotiation. Under Bush, the US made no real attempt to reach the Muslim world's ear or understanding. During the Cold War, Washington operated Radio Free Europe to showcase the more appealing aspects of American culture and to promote America's professed ideals to listeners behind the Iron Curtain. The program could have done better, but it reached a large number of listeners and helped make them more sympathetic to the United States. Such an overt propaganda program might be problematic under the current circumstances, but any number of "friendly" overtures could have been made to help counter the image of the US as "the Great Satan" (or at least, the self-appointed world policeman) in Iraq, Afghanistan, Iran, Indonesia, and elsewhere.

Washington could foster the development of a group of Muslim leaders and thinkers in the US who wish to show that terror is not the way of Allah. It is essential to reach out to the general populace of the widespread Muslim world, whether through broadcasts, the arts, educational exchanges or other means.

Neglect of intellect. To envision the needs of a nation rather than of one's own party or supporters requires more than street smarts. Bush shows no sign of appreciation for intellect, and exhibits no sign of intellect, himself. In this, Bush is doggedly following those Republican blaze marks and conservative cairns

established long ago to mark a consistent trail: the dumbing down of America during the last half century.

Conservative political thinking cannot survive in an intellectual climate, as Maria Montessori discovered. Nor can fundamentalist beliefs, as William Edelen illustrated. It's easy to be conservative, one astute commentator observed — you don't have to think. Few conservative personalities illustrate that little axiom better than Rush Limbaugh does.

Many recent leaders have shown a conspicuous lack of intellectual background or concern for it. This is not to condemn all Republicans, by any means. Howard Baker, a brilliant politician, became Ronald Reagan's White House chief of staff. Baker was a master of diplomacy with great vision, like Adlai Stevenson. The contrast between him and Ronald Reagan, and especially to Nancy and her soothsayer, is startling. Lowell Weicher was another brilliant Republican politician whom conservative Republicans eventually sabotaged. Weicher thought too much for mainstream Republicans from Connecticut. And the indomitable Republican Senator Everett Dirksen, as the Republican Minority Leader, posed (along with Gerald Ford) the clever "Question of the Week" to President Lyndon Johnson, in opposition to expanding the Vietnam War. These Republicans set a hallmark of intellect that all leaders should strive to reach.

Democrats say and do things that impair the nation's intellectual integrity as well, of course. An impressive body of evidence can be assembled, however, to present a disinterested picture that has been growing for decades. Republicans have consistently gnawed away at the nation's greatest resource, its intellect. When Nixon supporters nominated Harold Carswell for the Supreme Court, a wide-spread objection was voiced by Democrats and some Republicans that Carswell was mediocre. The Republican response was, "What's wrong with a little mediocrity?" Almost a century ago, E. M. Forster wrote a wonderful little article titled "Two Cheers for Democracy." Democracy doesn't deserve three cheers, Forster contends, because it breeds mediocrity.

Mediocre people are more likely to go along with the party line. The Republican Richard Ichord comes to mind; he was appointed in the late 1960s to head the "Internal Security Commission" (formerly McCarthy's notorious "House Un-American Activities Committee") Ichord's election to the House had been achieved, much like Tom DeLay's, by a manipulation of districting (less flatteringly known as "gerrymandering"). Ichord's thinking followed party lines. It had to, or he would not have been financed into his political position. After all,

despite the myth that people are “elected” to office, history shows that they are financed into office, and the person who panders to the party having the most money usually wins.

Another myth is that the US has a two-party system. Noam Chomsky pointed out that in reality both function so similarly that it is essentially a one-party system, and that party is the “business” party, Chomsky said. Sometimes the Republicans monitor it, and sometimes the Democrats. As Republican President Calvin Coolidge famously said, “What’s good for business is good for America.”

Ichord’s ideas, then, fit snugly with the ideals of the Republican, and not incidentally conservative, Party. Especially appealing was Ichord’s proposal to place all demonstrators and protestors of the Vietnam War into concentration camps. These camps, he said on the front page of the *Columbia [Missouri] Daily Tribune*, could easily be constructed within football stadiums, with just a little strategically placed barbed wire. This might sound outrageous and un-American, especially coming from the chair of the committee that was set up as a vanguard of American ideals. The next elections, however, swept both Ichord and Nixon back into office.

Rousseau’s ideals, which so strongly influenced the founding of America have no place in Bush’s mind. Bush and his supporters not only disregard but scorn opponents, considering them as not only treasonous but sinners. They are, in fact, a vital part of our nation. Only by challenging ideas can weak points be identified and corrected, and better ideas developed.

The American president who was the least popular, the most maligned, and the most fiercely hated during his term in office was the thinker Abraham Lincoln. He is now reckoned to have been one of the most effective presidents. And who was, arguably, the most popular? The eminent non-thinker, Ronald Reagan. Despite the errors of contemporary sentiment, history, implacable in its accuracy in spite of post-structuralism, deconstructionism, and textuality, may yet “right” the political equations.

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CHAPTER 2. GEORGE W. BUSH AND REPRODUCTIVE HEALTH AND HIV/AIDS POLICY

by John Kemoli Sagala and Zachary A. Smith

ABSTRACT

Reproductive health issues are enduring social problems that face each US President upon taking office. In this chapter, we examine the George W. Bush reproductive health policies. President Bush through the combined use of executive orders, executive and judicial appointments, and legislation has implemented several new policies on reproductive health and HIV/AIDS policy at the national and international levels. The findings of this chapter are that the Bush policies are solely driven by political concerns, the selective use and misuse of science, the overarching influence of conservative groups, evangelical Christians, and the triumph of politics over sound public policies.

INTRODUCTION

Reproductive health issues are among the many enduring social problems that face each US President upon taking office. Reproductive health is the science of human reproductive systems and its welfare. Many reproductive health courses focus on a range of topics that include abortion, adolescent sexual health, cervical cancer and reproductive tract infections, contraceptives, family

planning, gender and sexual health, HIV/AIDS, infertility and adoption, information and communication techniques, menopause, and safe motherhood etc.¹

Throughout history, every newly elected American president has reorganized federal agencies and appointed new White House staff to oversee, implement, and coordinate his plan of action.² By appointing people, altering procedures, reorganizing agencies, and coordinating activities, President George W. Bush through the combined use of executive orders, executive and judicial appointments, and legislative action has revised and implemented several new public policy initiatives on reproductive health and HIV/AIDS. The president's policies show a commitment designed to arouse and galvanize his conservative political base including the 4 million fundamental evangelical Christians who did not vote at all in the 2000 election.³ The president's recent public pronouncements including his call for a constitutional amendment to ban gay marriage are part of the president's 2004 political electioneering agenda. The president's agenda shows "a willingness to place political concerns over sound public health practice, both domestically and internationally."⁴ In this paper, we will examine Bush policies on abortion, contraceptives, adolescent sexual health, infertility and adoption, cloning, and HIV/AIDS policy by tracing his public statements and beliefs during and after the 2000 presidential elections.

BUSH AND THE 2000 PRESIDENTIAL ELECTIONS

During the October 3, 2000 presidential election debate in Boston, Massachusetts, candidates George W. Bush and Al Gore were asked several questions on the FDA's approval of morning after pill RU-486 (Mifeprex or mifepristone), abortion, partial birth abortion, adoption, and other reproductive health issues.⁵ In his responses, George W. Bush indicated his disappointment with the Sep-

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1. Reproductive Health Outlook (2004) in-depth information on 14 reproductive health topics as developed by Program for Appropriate Technology in Health (PATH). Retrieved March 01, 2004 <http://www.rho.org/>
 2. James Q. Wilson (1989). *Bureaucracy*. U.S.A: Basic Books: p. 261.
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 5. Issues 2000, *Presidential debates*. Retrieved February 19, 2004 at http://www.issues2000.org/George_W_Bush_Abortion.html

tember 2000 FDA approval of RU-486, his willingness to sign into law the ban on partial birth abortion, and his opposition to abortion, except in extreme cases of rape, incest, and medical-threats to a mother's life.¹ Bush also made it clear that he felt that the *Roe V. Wade* Supreme Court "decision went too far" and was hastening the destruction of human life.²

In an earlier Republican candidates' debate in Des Moines, Iowa (December 13, 1999), when asked about a philosopher-thinker who had influenced him the most, Bush said "Jesus."³ These responses pretty much capture the President's personal reproductive health convictions and his willingness to use the executive, legislative, and judicial branches of government to re-draw and implement his reproductive health and HIV/AIDS policy.

In general, every US President has four main weapons in implementing new policies, these include: "choosing people, altering procedures, re-organizing agencies, and coordinating activities."⁴ President George W. Bush has chosen people who share his principles and policies on abortion, contraception, teen pregnancy, teen sexuality and sexual health education, infertility and adoption, cloning, and HIV/AIDS. The following discussion, examines the history of abortion and the president's reproductive health agenda.

HISTORICAL ANALYSIS OF ABORTION LAW AND POLICY

Over the last several decades, abortion has remained one of the most controversial issues in American politics. We will provide a brief history of abortion law and policy and thereby set the stage for our analysis of the Bush administration's reproductive health and HIV/AIDS policy.

In 1959, the American Law Institute (ALI) called for the creation of a legal penal code for state abortion laws in cases of rape, incest, and mental and physical threats to the life of the mother.⁵ In 1967, Colorado enacted the first

1. Ibid.

2. CNN (January 22, 2001). *Bush reinstates ban on international family planning funds*. Retrieved January 21, 2004 <http://www.cnn.com/2001/ALLPOLITICS/stories/01/22/roe.wade/index.html>.

3. CNN (December 13, 1999). *The GOP-Republican Presidential debate in Des Moines, Iowa*. Retrieved February 20, 2004 <http://www.cnn.com/1999/ALLPOLITICS/stories/12/13/iowa.debate/>.

4. James Q. Wilson (1989). *Bureaucracy*. U.S.A: Basic Books: p260.

5. National right to Life (2004). *Abortion history*. Retrieved February 19, 2004 <http://www.nrlc.org/abortion/timeline.html>.

abortion law model followed by California, Oregon, and North Carolina. In 1972, New York Governor Nelson Rockefeller signed into law the right to abortion up to the 24th week, as did Alaska, Hawaii, and Washington State.¹ “Fourteen states and the District of Columbia reformed their abortion laws in the late 1960s,” including Arkansas in 1969, California 1967, Delaware 1969, Massachusetts pre-1961, Oregon 1969, and Virginia 1970.²

In 1971, the US Supreme Court made its first ruling on abortion in *United States v. Vuitch*, 402 U.S. 62 (1971).³ The Supreme Court held that a District of Columbia abortion statute that made it a felony for a doctor to perform an abortion unless it was necessary to save the woman’s life or health was not unconstitutional. In its ruling, the Court vested the determination of whether the continuation of a pregnancy would threaten the life of the mother rested with her physician.⁴ This ruling did not legalize abortion unlike *Roe v. Wade*.

On January 22, 1973 the US Supreme Court ruled on the “right to privacy” in *Roe v. Wade*, thereby guaranteeing the right to abortion through a trimester scheme. *Roe v. Wade* made it difficult for states to regulate abortion during the first six months of pregnancy. With *Roe v. Wade*, abortion could only be proscribed in the 3rd trimester, unless there was grave danger to the life and health of the mother.⁵ Since 1973, there have been 40 million abortions in the US.⁶ The United States Center for Disease Control and Prevention (CDC) estimates that 1.2 million abortions occur annually, while the Journal of the American Medical Association (JAMA) estimates that 300 to 500 late-term abortions are performed in the US annually.⁷

Since ascending to the presidency, George W. Bush with the help of the conservative political base namely the evangelical right, conservatives, and the Republican majority in both houses of the Congress has undertaken major mea-

1. Ibid.

2. Bitler, M., & Zavodny, M. (2002, Jan/Feb). Did abortion legalization reduce the number of unwanted children? Evidence from adoptions. *Perspectives on Sexual and Reproductive Health*, Vol. 34, no. 1, p.26.

3. Ibid.

4. U.S. Supreme Court, Case no. 402 US 62. *United States v. Vuitch* 1971.

5. U.S. Supreme Court. Case no. 410 U.S. 113. *Roe v. Wade*, 410 U.S. 113 (1973).

6. National right to Life (2004). *Abortion history*. Retrieved February 19, 2004 <http://www.nrlc.org/abortion/timeline.html>.

7. CNN (January 22, 2001). *Bush reinstates ban on international family planning funds*. Retrieved January 21, 2004 <http://www.cnn.com/2001/ALLPOLITICS/stories/01/22/roe.wade/index.html>.

asures to restrict abortion. The Republican Party using its majority in the House forced through the House the *Child Custody Protection Act H.R. 476*, which prohibits the transportation of a minor across inter-state lines to procure an abortion without first satisfying the home state requirements.

Furthermore, the 108th Congress passed the *Unborn Victims of Violence Act of 2004* or “Laci and Conner’s Law,” which President Bush signed into law on April 01, 2004.¹ This law elevates an unborn fetus to the legal entity of a human being and it could legally undercut the sanctity of *Roe v. Wade*. On November 5, 2003 President Bush signed into law *Public Law 108-105 the Partial-Birth Abortion Ban Act S.3 of 2003*.² Public Law 108-105 makes it illegal for any physician to perform partial-birth or late term abortions except in circumstances of “physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.”³ Several pro-abortion groups contend that the law puts all the emphasis on the mother’s life and not her “health.” Currently, three constitutional challenges seeking to overturn this law have been filed in New York, San Francisco, and Nebraska. At the same time, we can decipher Bush’s reproductive health agenda through his executive appointments.

EXECUTIVE APPOINTMENTS AND REPRODUCTIVE HEALTH POLICY

President George Bush’s executive appointment of former Wisconsin Governor Tommy Thompson as Secretary of Health and Human Services and Attorney General John Ashcroft shows a commitment towards restricting

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1. President Bush Signs Unborn Victims of Violence Act of 2004 <http://www.white-house.gov/news/releases/2004/04/20040401-3.html>. Also see U.S. 108th Congress <http://thomas.loc.gov/cgi-bin/query/D?c108:5:./temp/-c108iZMubZ>.
 2. U.S. 108th Congress (2003). “H.R. 1545 Partial-Birth Abortion Ban Act” and “Partial-Birth Abortion Ban Act” (S.3). Partial birth abortion is defined as an abortion in which “the person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and (2) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.”
 3. Public Law 108-105 108th Congress. Retrieved March 5, 2004 <http://frwebgate.access.gpo.gov/cgi-bin/useftp.cgi?laddress=162.140.64.88&filename=pub>.

women's reproductive rights. Secretary Thompson while Governor of Wisconsin signed various bills and executive orders that restricted access to abortion and other choice-activities including contraception.¹

Attorney General John Ashcroft as the former Attorney General and Governor of Missouri supported anti-choice legislation at state and federal levels. Notably, in 1983, John Ashcroft as the Attorney General of Missouri, represented Missouri in *Planned Parenthood of Kansas City, Missouri v. Ashcroft Case no. 462 U.S. 476 (1983)* before the Supreme Court. The Missouri statute required that any abortion beyond 12 weeks of pregnancy must be performed in the hospital with the presence of a second physician. In addition, minors must obtain parental consent or Juvenile Court consent before any medical procedure.

The Supreme Court in its ruling declared the after 12 weeks hospital requirement as unconstitutional bearing in mind that *Roe v. Wade* constitutionally guaranteed abortion within the first and second trimester.² Later as Missouri Governor, Governor Ashcroft signed the Missouri House Bill 1596, which defined conception as beginning of life. As a US Senator from Missouri, Mr. Ashcroft had an anti-choice voting record in the US Senate (S. Amdt. 2321 and Amdt. 2320 of 1999); and also opposed "contraceptive equity in insurance coverage for federal employees." On February 12, 2004, Eric Lichtblau of the *New York Times* reported that the Justice Department was demanding that six hospitals in New York City and Philadelphia "should provide over hundreds of patient medical records on certain abortions" on suspicion of partial-birth abortions. This action violates the privacy of patients and their personal liberties (p. A1). One fall back that such citizens have in America is the judiciary system, but we must ask ourselves a relevant question: is Bush pushing his reproductive health agenda through the judiciary?

BUSH'S JUDICIAL APPOINTMENTS AND REPRODUCTIVE HEALTH

George W. Bush has influenced reproductive health policy through judicial appointments as well. Most importantly, the President's judicial nominees including Texas Supreme Court Justice Priscilla Owen (5th Circuit Court

1. Center for Reproductive Rights (January 19, 2001). Tommy Thompson Cannot be trusted with women's health. http://www.crlp.org/pr_01_0119thom.html.

2. U.S. Supreme Court Case no. 462 U.S. 476: *Planned Parenthood of Kansas City, Missouri v. Ashcroft* 462 U.S. 476, 1983.

of Appeals); Michael McConnell (10th Circuit Court of Appeals); Judge Dennis Shedd (4th Circuit Court of Appeals); Lavenski Smith (8th Circuit Court of Appeals); Judge Charles Pickering (5th Circuit Court of Appeals); Judge Carolyn Kuhl (9th Circuit Court of Appeals); and Judge D. Brooks Smith (3rd Circuit Court of Appeals) depict a well-orchestrated onslaught on abortion and contraceptives. The President's nominees hold anti-choice sentiments and they also dispute the judiciousness of *Roe v. Wade*.¹

On February 20, 2004 President Bush made a recess appointment of former Alabama Governor Justice William H. Pryor, Jr. to the 11th Circuit Court of Appeals.² Justice Pryor holds extremely hostile views on women's constitutional right to reproductive choice. Pryor once said "I will never forget January 22, 1973, the day seven members of our highest court ripped the Constitution and ripped out the life of millions of unborn children"³ On *Roe v. Wade*, Pryor viewed it as "the worst abomination of constitutional law in our history."⁴ In addition, to Justice Pryor and the above appointees, many pro-choice proponents fear that a Bush re-election and potential Supreme Court appointments would further erode women's choice. The retirement effect of any of the justices of the Supreme Court and its impact on *Roe v. Wade* remains a matter of intense speculation.⁵ President Bush has variously upheld anti-choice justices such as Justice Antonin Scalia and Justice Clarence Thomas as his criterion for nominating Supreme Court judges.

CONTRACEPTIVES, EMERGENCY CONTRACEPTION AND PREGNANCY PREVENTION

George W. Bush like other conservatives argues that the availability of contraceptives must be limited. Traditionally, conservatives contend that con-

1. Planned Parenthood (2004). *A Planned Parenthood Report on the Administration and Congress: George W. Bush's War on women: A chronology*. Retrieved February 15, 2004 <http://www.plannedparenthood.org/library/facts/030114-warenwomen.pdf>.
2. CNN (February 21, 2004). Bush appoints judge during Senate break. Retrieved March 5, 2004 <http://www.cnn.com/2004/LAW/02/21/bush.judges.ap/index.html>.
3. Greene, K., "Bill Pryor Hopes to Ride Court Crusade to the Top," *Wall Street Journal*, May 21, 1997.
4. Pryor, B. "Federalism and the Court: Do Not Uncork the Champagne Yet," Remarks before the National Federalist Society, Washington, D.C., Oct. 16, 1997.
5. Mears, W. & Franken, B. (2003). *30 years after ruling, ambiguity, anxiety surround abortion debate*. Retrieved February 25, 2004. <http://www.cnn.com/2003/LAW/01/21/roevwade.overview/>.

traceptives have increased teenage promiscuity and irresponsible sex. On the other hand, the pro-choice movement has argued that women's access to contraceptives and the "widespread use of emergency contraception (EC) could prevent as many as half of the 3 million unintended pregnancies that occur each year in the US"¹ The Bush administration rescinded the 2000 FDA approval of RU-486.² In addition, the FDA on February 17, 2004 declined to approve the sale of Plan-B pills without a doctor's prescription.³ Plan-B is the first progestin-only emergency contraceptive prevents pregnancy within 72 hours after unprotected sex or contraceptive accident.

TEEN SEXUAL HEALTH AND SEX EDUCATION

Teenage sexuality and reproductive health remains a troubling and enduring social problem. Teenagers (15 — 19-year-olds) are especially vulnerable to sexual exploitation and unprotected sexual activities.⁴ Teen mothers account for 300,000 live births annually.⁵ Each year, about 3 million teenagers are infected with a sexually transmitted disease (STDs).⁶ Teen pregnancy and child-bearing costs the "United States taxpayers at least \$7 billion per year."⁷

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1. Reproductive Health Technologies Project (2003). FDA. Panel recommends back-up birth control be made available over-the-counter. Retrieved February 20, 2004 <http://www.rhtp.org/ec/pdfs/ec-otc-approved.pdf>.
 2. Republicans in 108th Congress (November 2003) introduced a bill in both houses *RU-486 Suspension and Review Act of 2003 (Senate) S. 1930 and RU-486 Suspension and Review Act of 2003 (House of Representatives) H.R. 3453* aimed at revoking the FDA approval of RU-486. The bill aims at criminalizing the marketing and distribution of RU-486 (108th Congress S.1930, H.R. 3453).
 3. Kolata, G. (February 14, 2004). FDA to delay its decision on sale of morning-after pill. *The New York Times* www.nytimes.com/2004/02/14/health/14PILL.html.
 4. For detailed analysis on teen sexual health see Kirby, D. (2001). Emerging answers: Research findings on programs to reduce teen pregnancy. Washington, DC: *National campaign to Prevent Teen Pregnancy*; Kirby, D. (2001, Nov./Dec.). "Understanding what works and what doesn't in reducing adolescent sexual risk-taking." *Family Planning Perspectives*, Vol. 33, no. 6, pp. 276-281; and Spitz, A. M. et al., (1996, April). Pregnancy, abortion, and birth rates among US adolescents: 1980, 1985, and 1990. *The Journal of the American Medical Association*, Vol. 275, no. 13, pp. 989-994
 5. Rodgers, B. K. (Undated). What to know about teen sexuality. *The University of Tennessee Agricultural Extension Service*. SP491-c. Retrieved February 21, 2004 <http://www.utes-tension.tennessee.edu/publications/sfiles/sp491c.pdf>.
 6. Alan Guttmacher Institute (1994, cited in *Sexual Behavior*). Retrieved February 20, 2004 <http://www.dpi.state.wi.us/dpi/dlsea/sspw/pdf/yrbs99/sexbehav.pdf>.
 7. 108th Congress S. 657 Sec. 24, 2003.

Historically, the federal government has put emphasis on abstinence education as the only way of preventing teen pregnancies and STDs.¹ The 1996 Welfare Reform Act: *Section 510 (b) Title V of the Social Security Act* allocated each state \$50 million (i.e., match every \$4 from the federal government with \$3 from state/local budgets) for financial year FY98 to FY02 for abstinence-only programs. Since 2001, President Bush has emphasized the need for “abstinence-only programs.” President Bush appointed abstinence-only advocates Patricia Funderburk Ware (2001) and Tom Coburn (2002) to the Presidential Advisory Council on HIV/AIDS (PACHA).² In FY02, Bush increased abstinence funding by \$20 million, and in FY03 by more than \$33 million. The Bush FY05 budget has doubled abstinence-only funding to \$ 273 million from \$141 million in FY04.³

Experts have found that abstinence-only programs alone cannot do the job. Critics include the American Medical Association, the American Academy of Pediatrics, the American Public Health Association, and the American College of Obstetricians and Gynecologists; they argue that abstinence-only programs are inadequate in solving teen reproductive health problems and they have called for comprehensive sex education.⁴

FAMILY VALUES, STRONG MARRIAGES, INFERTILITY AND CHILD-ADOPTION

President Bush has consistently called for strong marriages, strong family values, and a national child-adoption campaign to address the social problems of abortion and child homelessness.⁵ In 2001, the Bush administration increased the adoption tax credit from \$5,000 to \$10,000 and also created a new website

1. See the 1981 Adolescent Family Life Act (AFLA); 1996 Welfare Reform Section 510, Title V of the Social Security Act (Public Law 104-193).

2. See no. 23.

3. White House Office of Management and Budget (2004). The Bush FY05 Budget Estimates. www.whitehouse.gov/omb/.

4. See Spitz 1996 no. 30; Landry, D. et al., (2003, Nov/Dec). Factors associated with content of sex education in US public secondary schools. *Perspectives on Sexual and Reproductive Health*, Vol. 35, no. 6 pp. 261-269. See also Union of Concerned Scientists (2004). Scientific integrity in policymaking: An investigation into the Bush Administration's misuse of science. Retrieved February 23, 2004 http://www2.ucsusa.org/global_environment/rsi/rsirelease.pdf.

5. Bush, G. (2003). President Bush signs the Adoption promotion Act of 2003. Retrieved February 26, 2004 <http://www.whitehouse.gov/news/releases/2003/12/print/200312202-1.html>.

dedicated to adoptive parents and children (www.adoptuskids.org). On December 02, 2003, President Bush signed *Public Law 108-145 Adoption Promotion Act of 2003* in order to strengthen adoption.¹

BUSH ON HUMAN CLONING

The potential for science to transform human reproduction became real with the cloning of *Dolly*. The cloning of human beings is a very controversial issue. It is a process of social engineering that is morally and ethically troubling. President Bush's moral and Christian values have validated themselves in his rejection of human cloning.² President Bush in 2001 showed his support for a ban on human cloning by endorsing *H.R. 2505* and on February 27, 2003 urged the Senate to "act quickly on legislation banning all human cloning." The President noted,

I believe human cloning is deeply troubling, and I strongly support efforts by Congress to ban all human cloning. We must advance the promise and cause of medical science, including ethical stem cell research, yet we must do so in ways that respect human dignity and help build a culture of life.³

THE HIV/AIDS PANDEMIC

In its 20-year history in the United States, the HIV/AIDS epidemic has been associated with the homosexual community (unlike in the Third World, where AIDS is mostly spread through heterosexual activities). In the United States, HIV/AIDS continues to be a major health crisis of the homosexual community.

HIV/AIDS data collection and dissemination in the US is highly developed compared to other countries. The number of people living with HIV/AIDS in the

1. *Ibid*.

2. 108th Congress S. 245; Sec. 498D [a]) defines human cloning as asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism. See H. RES. 105 of 2003; H.R. 534 the Human Cloning Prohibition Act of 2003 US Senate (S.245); and S.303.

3. White House Statement (February 27, 2003). Statement by President Bush. Retrieved February 26, 2004. <http://www.whitehouse.gov/news/releases/2003/02/print/20030227-20.html>.

US is approximately 900,000, while 300,000 people may not be aware that they are in infected. Approximately 40,000 new cases of HIV occur every year of which 70% are men and 30% female.¹ In general, HIV/AIDS cases are rapidly increasing among minority populations². African Americans males account 47% US male HIV/AIDS cases; White non-Hispanic male 32%; and Latino males at 19%. Among the female, African Americans lead with 63%, followed by White non-Hispanic 19%; and Latino female at 17%.³

On the domestic scene, AIDS activists have criticized the President for not paying enough attention to domestic HIV/AIDS issues. In addition, critics argue that the President is grossly under funding domestic HIV/AIDS programs. The President has been criticized for paying “too much attention to international AIDS concerns and little of it to problems here at home [the US].”⁴ Many religious conservatives early on labeled HIV/AIDS as a heavenly curse on homosexuals, the wicked, and the promiscuous. However, the 2003 appointment of Carol Thompson and Chris Bates to the federal Office of National AIDS Policy has been applauded as a signal of President Bush’s commitment to domestic AIDS issues.⁵ Notwithstanding, these criticisms, Bush backers argue that the president has shown immense commitment at the international level. President Bush’s international commitment has been tied to the work of conservative evangelical Christians. “In February 2002, Franklin Graham, son of Billy Graham and founder of Samaritan’s Purse, an evangelical charity based in South Carolina, convened the first international Christian conference on HIV/AIDS. More than 800 evangelical Protestant and Catholic leaders” gathered in Washington, D.C., and demanded action from the White House.⁶

1. White House Office of National AIDS Policy, (2004). The HIV/AIDS epidemic: 20 years in the US. Retrieved February 12, 2004, <http://www.whitehouse.gov/onap/facts.html>.

2. Center for Disease Control and Prevention or CDC (2002). Young people at risk: HIV/AIDS among America’s youth. *Youth May 2002*.

3. See no. 43.

4. Chris Bull (Nov. 11, 2003). Bush on AIDS. *The Advocate*, 42, www.advocate.com.

5. *Ibid.*

6. Burkhalter, H. (Jan/Feb 2004). The politics of AIDS. *Foreign Affairs*, Vol. 83 Issue 1, p. 8-15.

BUSH: INTERNATIONAL HIV/AIDS POLICY

The United Nations' estimates put the global HIV/AIDS cases at 40 million. In Africa alone, an estimated 29.4 million people are infected with HIV/AIDS and 2.4 million lives have been lost to HIV/AIDS (UNAIDS, 2003). In 2002, there were 3.5 million new HIV infections. Sub Saharan Africa contains just over 10% of the world's population, yet the region accounts for 71% of global HIV/AIDS cases.¹

President Bush in his 2003 State of the Union address asked Congress "to commit \$15 billion over the next five years to turn the tide against AIDS in the most afflicted nations of Africa and the Caribbean."² The 108th US Congress responded with the passage of *H.R. 1298 United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria*.³

In May 2003, President Bush signed into law *H.R. 1298 United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003* (henceforth *Public Law 108-25*).⁴ *Public Law 108-25* sought to appropriate \$3 billion for each of the fiscal years 2004 through 2008. Accordingly, 55% of the \$3 billion would be used for treatment of HIV/AIDS, 15% for palliative care, and 20% for educational efforts and HIV/AIDS prevention. *Public Law 108-25*: Sec. 104A 3(B) specifies that prevention programs should focus on "delaying sexual debut, abstinence, fidelity, and monogamy, reduction of casual sex partnering, and where appropriate, use of condoms." Whether these funds will be made available or not is another matter, however, the promise suffices for this investigation.

Our point of departure must emphasize the Bush administration's inconsistencies in the international fight against HIV/AIDS. President Bush's international HIV/AIDS commitment and leadership is being undermined by his own Executive Order issued in January 2001, which reinstated the 1984 Reagan Executive Order (Mexico City Policy or "global gag-rule").⁵ The Bush Executive

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1. UNAIDS (2002, July). UNAIDS Report on the Global HIV/AIDS Epidemic. Retrieved Nov. 07, 2003. www.unaids.org/HIV/AIDS/globaldata.
 2. Ponnuru, R. (2003, May). Fighting AIDS right: A couple of bumps, in Bush's grand plan. *National Review*, Vol. 55, i9
 3. US 108th Congress H.R. 1298 United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria.
 4. Bush signs H.R. 1298. See www.whitehouse.gov.
 5. The Center for Reproductive Rights (2003). Breaking the silence: The global gag rule's impact on unsafe abortion. Retrieved February 23, 2003 http://www.reproductiverights.org/pdf/bo_GRR_impact_1003.pdf.

Order prohibits the use of US federal dollars for international family planning, condom distribution, abortion activities, and provisioning of contraceptives, and instead puts emphasis on abstinence-only programs. Bush states,

It is my conviction that taxpayer funds should not be used to pay for abortions or advocate or actively promote abortion, either here or abroad. It is therefore my belief that the Mexico City Policy should be restored (George W. Bush, 2001).¹⁴

By imposing restrictions on the use of HIV/AIDS funds, the President is being inconsistent and unrealistic. The President's Memo makes it "virtually impossible for organizations that provide HIV/AIDS prevention, care, and treatment services to receive funds if they also perform or engage in abortion-related activities."² The leading US conservative groups are essentially hostile to HIV/AIDS comprehensive sex education and condom distribution, and instead prefer the promotion of abstinence.³ The Bush Order has "has shut down programs that provide family planning, HIV/AIDS and other reproductive health care effectively undermining services"⁴

Many international agencies in the reproductive health field have protested the Bush "gag-rule" to avail. The "gag-rule" is a double burden for pregnant women with HIV/AIDS, for if they opt for treatment, then they cannot access abortion and vice versa. The "gag-rule" has inhibited access to family planning, stalled emergency contraception initiatives, and curtailed education on post-abortion care in Kenya, Uganda, Ethiopia, and other African countries.⁵ The "gag-rule" has also stalled international development initiatives including the promises of the 1994 United Nations Population Summit of Cairo, Egypt. On July 22, 2003 President Bush withheld \$34 million in funding for maternal and child health, HIV/AIDS prevention, and birth control programs of the United Nations Fund for Population Activities (UNFPA). In October 2002, Bush froze \$3 million in funding to the World Health Organization.⁶ The "gag-rule" has also impeded and isolated non-governmental organizations from USAID, and

1. Bush G. W. (2001). Memorandum for the Administrator of USAID. Retrieved February 19, 2004 www.usaid.gov/whmemo.html.

2. Africa News Service (February 22, 2003). Bush restriction on HIV/AIDS undermines his new global initiative. P 100080552u1232.

3. Burkhalter, H., *ibid*.

4. The Center for Reproductive Rights, *ibid*.

5. *Ibid*.

6. See no. 23.

restricted NGO partnerships and collaborations.¹ President Bush has also been criticized for adopting the “Uganda model,” which emphasizes abstinence and monogamy instead of encouraging comprehensive sex education and prevention programs including the use of condoms. The above discussion raises very pertinent issues on the role of science in public policy making. How is the Bush administration using science in public policy making?

THE USE OR MISUSE OF SCIENCE

The Union of Concerned Scientists in its 2004 report *Scientific Integrity in Policymaking: An investigation into the Bush Administration’s Misuse of Science* has criticized the President for undermining the quality and integrity of the scientific advisory team and the morale of the scientific community by distorting facts and muddling objectivity with political ideology and expediency. The report notes that high-ranking members of the Bush administration manipulate the government’s scientific advisory system to prevent the appearance of advice that might run counter to the administration’s political agenda. For example, at the CDC website, “fact-based information . . . has been altered to raise scientifically questionable doubt about the efficacy of condoms in preventing the spread of HIV/AIDS.”² This selective use of science is evident in many of the Bush policies from global warming to pollution to water quality issues, etc.

THE BUSH POLICY: OUR POSTSCRIPT

From the above discussion, it is evident that Bush has implemented new reproductive health policies through Executive Orders and appointments, judicial appointments, altering of procedures, reorganizing of agencies, and coordinating new activities and legislation. It is also evident that at both the domestic and international levels, the Bush policies have been largely driven by

1. The Center for Reproductive Rights, *ibid*.

2. Union of Concerned Scientists (2004). *Scientific integrity in policymaking: An investigation into the Bush Administration’s misuse of science*. Retrieved February 23, 2004 http://www2.ucsusa.org/global_environment/rsi/rsirelease.pdf.

political concerns. The Bush administration selectively uses science that suits its political agenda, while abandoning and dissociating itself from any science that conflicts with the conservative agenda.¹

Finally, the ban on the distribution of condoms, sex education, and use of contraceptives both at home and abroad further reflects the tremendous influence of conservative evangelical Christian and legislative leaders on the President's policies. However, both here in the United States and in places like Africa and the Caribbean, the threat of HIV/AIDS, sexually transmitted diseases, unsafe abortions, denial of basic female reproductive choice, rejection of comprehensive sex education, and the misuse of scientific data does not bode well for America's global leadership.

1. *Ibid.*

CHAPTER 3. ENVIRONMENTAL UNILATERALISM: THE BUSH ADMINISTRATION'S WITHDRAWAL FROM THE KYOTO PROTOCOL ON GLOBAL WARMING

by Sayuri Guthrie-Shimizu

Since President George W. Bush launched a US-led preemptive attack against Iraq without a United Nations mandate, unilateralism has become the indelible emblem of his administration's actions in the international arena. While Bush's strategic doctrine, announced in September 2002, makes a requisite reference to cooperation with friends and allies in defending common interests, his administration's treatment of various international cooperative mechanisms betrays its underlying disdain for the concept of multilateral problem-solving. The earliest inkling of the Bush administration's unilateralist approach to problems affecting the world collectivity came in March 2001, when it withdrew US support for the global warming treaty commonly known as the Kyoto Protocol. Its go-it-alone propensity at multilateral rule-making forums became blazingly clear with the virtual abandonment of the Comprehensive Nuclear Test Ban Treaty a year later. More recently, the administration further reinforced its unilateralist credential in the eyes of many by opting not to sign the 150-nation Anti-Landmine Treaty.

Among these decisions, Bush's refusal to support the Kyoto Protocol has been cited often by the administration's critics as the prime example of shunning multilateral policy coordination in favor of narrowly "American" solutions. Soon after entering the White House, Bush declared, to the embarrassment of Environmental Protection Agency Director Christine Todd Whitman, that his gov-

ernment would not require electric power plants to reduce carbon dioxide emissions under the Clean Air Act. Soon afterwards, he dealt another blow to environmentalists at home and abroad by rejecting the Kyoto Protocol, a product of the long-standing efforts by the United Nations, scientists, and environmental NGOs to control emissions of heat-trapping “greenhouse gases” (GHG) with the aim of slowing down the pace of global warming (Bush, 2003).

Negotiated by more than 100 countries over a decade, the Kyoto Protocol requires the world’s 38 industrial nations including former Communist countries to reduce their greenhouse gas emissions (carbon dioxide [CO₂], methane [CH₄], nitrous oxide [N₂O], chlorofluorocarbons [CFCs] and its substitutes, sulfur hexafluoride [SF₆]) by the year 2012 to 5.2% below 1990 levels (Depledge, 2000). The principle reason Bush and his aides gave for rejecting the multilateral environmental treaty was simple: it would hurt the US economy and constrain domestic energy supplies and consumption (Bush, 2001).

Bush’s rationale, and the way he questioned the validity of existing scientific theory on global warming endorsed by the Intergovernmental Panel on Climate Change (IPCC), elicited a storm of criticism from members of the European Union (EU), some developing countries, environmental NGOs and concerned scientists from around the world. His unilateralist action, although anticipated, was met with expressions of dismay from Canada, Japan, and other industrialized co-signatories to the Kyoto Protocol that had taken a position relatively close to the United States in the preceding global warming talks (*Asahi Shinbun*, 2001-1). Following Bush’s announcement in late March, European environmental ministers indicated their intent to proceed with international discussions on how to implement the Kyoto Protocol with or without US participation (*The Guardian*, 2001). Perhaps no other single action taken during the administration’s first year in office revealed more glaringly to the world the Republican President’s domestic policy agenda, characterized by the kid-glove treatment of the oil and coal industries, blind allegiance to the 20th-century paradigm of unrestrained fossil fuel use for the sake of economic growth, and mindless perpetuation of the US enchantment with the “good life” predicated on massive energy consumption.

A brief survey of transnational endeavors that culminated in the landmark Kyoto Protocol that Bush breezily walked away from will highlight the hubris with which the current US government spurned years of international consensus-building and policy coordination. It also lays bare the reality of Bush’s self-professed policy of “cooperating with friends and allies” in tackling the

problem of global climate change. By the last decade of the 20th century, the world had come to acknowledge what was becoming a dominant theory within the scientific community: that human activities are increasing and concentrating greenhouse gases in the atmosphere, and this trend is having a discernible impact on global climate systems. The vast majority of scientists engaging this question linked greenhouse gas emissions with a warming of the earth, which could result in elevations in the sea level, changes in weather patterns and global epidemiology, and harmful effects on human health — phenomena commonly bracketed as global warming (Fletcher, 2000). In 1992, leaders of many countries and environmental NGOs came together at the “Earth Summit” in Rio de Janeiro and translated their shared concern into a plan for action. The United States Framework Convention on Climate Change (UNFCCC) thus came into being. The United States, then under the Clinton administration, was a key mover of the global conference and one of the first countries to sign and ratify the landmark multilateral agreement that resulted from it (Mintzer, 1994).

The framework convention, however, entailed only a voluntary pledge that the world’s major industrialized nations would strive to reduce their greenhouse gas emissions to 1990 levels by the year 2000. It became clear by the time the UNFCCC went into force in early 1994 that these stated goals would not be achieved voluntarily by the target date, most notably by principle GHG-emitting countries such as the United States and Japan. The UNFCCC then decided at the first Conference of the Parties (COP-1) held in Berlin in the following year to begin negotiations towards a legally binding international accord to reduce GHG emissions. As part of this 1995 “Berlin Mandate,” the parties also agreed that this next phase of talks on global warming would establish binding emission reductions only for members of the Organization for Economic Cooperation and Development (OECD) and former communist countries. These nations were listed in Annex I to the framework convention, and thus called “Annex I countries.”

The result of both formal and informal negotiations leading up to the UNFCCC’s third session (COP-3) held in December 1997 was the GHG abatement protocol bearing the name of the Japanese host city, Kyoto. The negotiations at COP-3 were extremely arduous, to the point of nearly breaking down over three of the most divisive issues. The potential deal-breakers were (1) the amount of binding reductions in greenhouse gases to be required under the Kyoto Protocol, and the types of heat-trapping gas to be included in these obligations; (2) whether developing countries (“Non-Annex I countries”) should be

made subject to the binding requirements for GHG emission reductions, as strongly urged by the United States; and (3) whether to allow emissions trading and joint implementation (JI) among parties to UNFCCC. A personal appeal for concerted action by US Vice President Al Gore at a critical moment during the Kyoto meeting helped push the contending parties towards forging eleventh-hour agreement (Kameyama, 2002).

The Kyoto Protocol, opened for signature in March 1998, was to enter into force and become legally binding as an international agreement only when 55 signatories had ratified it, provided that these 55 ratifications included Annex I countries responsible for at least 55% of the world's total carbon CO₂ emissions in 1990. All parties understood then that this provision would be difficult, if not impossible, to fulfill without ratification by the United States, the country whose population, accounting for only 4% of the world, released 25% of all greenhouse gasses (and 36% of emissions by Annex I countries combined) into the earth's atmosphere. The figure 55% was carefully chosen by negotiators gathered in Kyoto to prevent the worst-case scenario in which US non-ratification would scuttle the entire protocol. That is why environmentalists world over heaved a collective sigh of relief when the Clinton administration signed the Kyoto Protocol on November 12, 1998, after almost a year of deliberation. Clinton put his signature on the treaty in part to re-boost the global momentum for GHG regulation, seen flagging at the fourth conference of parties (COP-4) in the Argentine capital of Buenos Aires. As of March 2004, 84 parties had signed and 121 parties had ratified or acceded to the Kyoto Protocol, but it has not yet gone into force. As anticipated, the Bush administration's withdrawal of US support in March 2001 has had a major stalling effect, as illustrated by the damper it put on ratification by another key Annex I country: Russia (UNFCCC, 2004)

Contrary to the charge made by domestic critics of the Kyoto Protocol, the Clinton administration neither made excessive concessions to EU at COP-3, nor sacrificed America's legitimate interests for the sake of crafting international agreement. The obligations the United States took on under the Kyoto Protocol were no more burdensome than the commitments made by other OECD members. In terms of emission reductions, for instance, the amounts allowed for each Annex I country, represented in the treaty as percentages of the base year of 1990, ranged from 92% (representing a reduction of 8%) for most European countries to 110% (an increase of 10%) for Iceland. For Japan, the requirement was 94% (a reduction of 6%). The United States was obliged to 93%, or a cumulative reduction of 7% below 1990 levels for three greenhouse gases including

CO₂, and below 1995 levels for the three man-made gases. This was to be achieved over the 5-year “budget” period starting in 2008 (Fletcher, 2000).

During the negotiations towards the Kyoto Protocol, environmental experts in the Clinton administration believed that since the Protocol’s accounting method included “sinks” (sources that remove CO₂, the most important greenhouse gas, from the atmosphere) the actions actually necessary to reduce emissions within the United States would likely be substantially less than 7% below 1990 levels. One data set even suggested that the United States could offset up to 14% of its current CO₂ emissions if it were awarded full credit for domestic “land-use change and forestry” — a significant down payment that could amount to nearly half of the required cut during the 2008-2012 budget period (Victor, 2001, 8). The Clinton administration also estimated that a significant portion of the nation’s 7% reduction target could be met through some combination of emissions trading and joint implementation of emission-reduction projects with other Annex I countries.

In fact, the US achieved many key aspects of their negotiating agenda towards the Kyoto meeting and succeeded in installing into the protocol GHG limitation mechanisms that would allow the country to fulfill its share of responsibility in containing threats of global warming without placing undue heavy burdens on US businesses or having to choose between “markets” and “command and control” policy instruments dictated by a supranational authority. There are three so-called “market-based” GHG-abatement programs written into the Kyoto Protocol: emission trading, Joint Implementation (JI), and the Clean Development Mechanism (CDM). In emissions trading, an Annex I country, under Article 17 of the protocol, is allowed to “transfer to, or acquire from, any other such Party emission reduction units resulting from projects aimed at reducing anthropogenic emissions by sources or enhancing anthropogenic removals by sinks of greenhouse gasses” to meet its commitments under the treaty with several provisos. Among them is the requirement that such trading “shall be supplemental to domestic actions.” A nation thus cannot entirely fulfill its responsibility to reduce domestic emissions by relying primarily on emissions trading to meet its national targets.

A second “flexibility mechanism” agreed upon in Kyoto, again at strong US insistence, was the program of joint implementation (JI). On the basis of Article 6 of the protocol, Annex I countries would be allowed to count as credit (Emission Reduction Units, or ERUs) towards their national emission reduction targets GHG reduction achieved within the territories of other Annex I coun-

tries, provided that certain designation and verification procedures are cleared. The United States also shared with other Annex I countries opportunities to achieve emission reductions through activities undertaken in developing countries where the cost of emission abatement measures would be lower. Article 12 of the Kyoto Protocol permits Annex I countries to earn credits for those emission reduction projects they undertake in non-Annex I countries under certain conditions. Called Clean Development Mechanism (CDM), this “market-based” system is available not only to legal entities but to private entities as well. Emissions reductions achieved through this mechanism could begin in the year 2000 to count towards compliance in the first commitment period, 2008-2012. Through CDM, the United States could, as could other Annex I parties, participate in emission reduction projects in developing countries in the form of capital transfer or foreign aid to help build more global-warming conscious industrial facilities there. These options became part of the Kyoto Protocol at the insistence of the United States to allow flexibility and market mechanisms in meeting respective national obligations. Some parties to UNFCCC, particularly developing countries, resisted the inclusion of these provisions, claiming that they were a US ruse to hunt and purchase “rights to pollute” around the world while “locking in” new development projects in non-Annex I countries through capital transfer.

One of the more onerous problems for the Clinton administration going into the Kyoto meeting was the scope of developing countries’ responsibilities in the emerging GHG regulatory regime, and the Bush administration later cited the “unfairness” of the differential treatment of non-Annex I countries as a reason for rejecting the Kyoto Protocol. The US delegation at COP-3 had insisted that “meaningful participation” of developing countries in emission reduction commitments made in the Protocol was essential both to fulfilling the goals of the treaty and, particularly, to its ratification by the US Senate. This position was necessitated by Senate Resolution 98, adopted 95-0 in June 1997, that the United States not become a party to a protocol that did not require developing countries to accept binding emissions limitation requirements. Senate critics were particularly worried at the time about the lack of numerical restraints on GHG emissions by major developing countries such as China, India, and Brazil. Throughout the Kyoto meeting, the non-Annex I countries collectively argued that the Berlin Mandate had expressly exempted them from such binding commitments and that the current state of global warming was largely attributable to past GHG emissions by the industrialized part of the world. These differences

could not be ironed out, and, as a result, the Kyoto Protocol contained no numerical targets for developing countries (Matsumoto, 2001).

While this differential treatment of developing countries further alienated opponents in the US Congress from the treaty, the Clinton administration used the domestic opposition embodied in Senate Resolution 98 to pressure non-Annex I countries into making emissions control commitments of one sort or another. It announced in various policy pronouncements after the Kyoto meeting that the President would not submit the treaty to the Senate for advice and consent — and thus the United States would not ratify it — until meaningful developing country participation in the process of GHG mitigation had been pledged. At COP-4 in November 1998, the host country Argentina became the first developing country to state that it would commit itself to a binding emission limitation target for the 2008-2012 budget period. Kazakhstan also indicated its intention to take on a similar numerical commitment. Clinton signed the Kyoto Protocol soon after these announcements were made.

Subsequent to COP-4 in Buenos Aires, signatories to the Kyoto Protocol continued negotiations on specific rules governing how the “flexible mechanisms” sanctioned in the Kyoto Protocol would work. By the time Bush entered the White House in early 2001, the outline of such implementation schemes and emission trading systems was finally in place as a result of laborious negotiations at COP-5 in Bonn, Germany, and COP-6 in the Hague, Netherlands. The Bush administration’s decision simply to withdraw from the emergent global GHG regulatory regime on the account of a “national energy policy” was, therefore, an affront to the co-signatories who had spent the previous ten years trying to devise a workable multilateral system where the disparate needs of parties at different stages of economic development could be balanced and to build domestic legal structures that conformed to the global regulatory regime in the making. Bush’s manifesto of environmental unilateralism also laid bare his administration’s disregard for the fact that the absence of US ratification threatened to keep the protocol from going into force, hampering concerted action on this globally-recognized problem which knows no national borders.

At the same time he abandoned the Kyoto Protocol, Bush announced that his administration would propose a more sweeping and fairer GHG emissions reduction protocol at COP-6 reconvening for a supplementary session in Bonn in a few months. He was, however, unable to reconcile various domestic economic interests and make necessary new appointments in a timely fashion. A result of this disorganization on the part of the new administration was that the United States had to participate in the resumed COP-6, which had been postponed until

June of that year partially to allow the Bush administration to prepare its promised alternative to the Kyoto Protocol, with nothing specific to present to the world. By withdrawing US support of the protocol, the Bush administration pushed itself to the sidelines as other parties to UNFCCC hammered out under EU leadership rules and regulations concerning the “market-based” flexibility mechanisms its Democratic predecessor had helped build into the protocol. Neither could the United States participate in the substantive discussions at the Bonn meeting on the three funds set up to facilitate the adoption of global-warming conscious policies and practices in developing countries (Kameyama, 2001).

While the Bush administration has insisted on pursuing myopically “national” energy policies locked in the 20th century paradigm, members of EU steamed ahead in devising and experimenting with more forward-looking energy policies and GHG emission controls which embrace the reality of global climate change in the new millennium. Starting with Sweden’s in March 2002, a number of EU members issued a government energy white paper and spelled out to its populace and to the outside world coherent national strategies to shift away from the existing dependence on fossil fuels. The two standard bearers in EU’s more progressive approach to the problem of climate change are Germany and Great Britain, two of the United States closest “friends and allies” in the industrialized world. Since the late 1990s, Germany’s coalition government has upheld the notion of “ecological modernization” as a central principle with which to regulate its domestic energy use. It has introduced a federal GHG regulatory regime consisting of environmental taxes and emission trading. Although Germany has not built a single nuclear power plant since 1990, it was able to reduce its CO₂ emissions by 20% in the last ten years. By the end of 2002, Germany’s wind power generation reached 12 million kilowatts (about 40% of the world’s wind power production) and created 30 thousand jobs in this new-generation energy industry. Dubbed the “Green Gold Rush,” wind power generation now provides approximately 5% of Germany’s power supplies, and experts estimate that by the year 2010, the nation will likely attain the government target of 10% (Iida, 2003).

Another example of good global citizenship in terms of the GHG problem is Britain (*Asahi Shinbun*, 2004), which was assigned a 12.5% reduction requirement out of the overall EU GHG commitment of 8% cut under the Kyoto Protocol. Having reduced its GHG emissions by 13% by the year 1999, Britain handily achieved this assigned national target, particularly by converting from oil to natural gas as its main energy source. The British government also insti-

tuted a comprehensive government program in 2001 to address climate change. The three pillars of Britain's domestic architecture is the Climate Change Tax levied on business offices and factories, tax cuts for those achieving energy conservation and GHG emissions limitation targets in accordance with the "Climate Change agreement" with the government, and emission trading among private enterprises conducted in the world's first open market. Complete with trading agents and prices fluctuating with the demands, the British experiment with systematized emission permit trading provides practical and administrative know-how that can be shared with other industrialized countries seeking to utilize this market-friendly regulatory instrument. The scheduled opening of the EU-wide emission permit trading market in 2005 will stem from these enduring efforts in collective learning and cross-national institution building, not from a unilateral declaration of a "national energy policy" catering to the immediate needs and interests of domestic businesses and consumers.

Experts on the emergent global climate change regulatory regime agree that international trading in GHG emission permits betokens tremendous business opportunities. As a novel experiment in global institution building and rule making, however, the system is only at an embryonic stage, and there are many legal and administrative questions left unresolved. Private US corporations are fully aware of the potentially massive profits to be made from this new international "commodity" trade and new environmental technologies that may be applied in various JI and CDM projects across the world (Hahn and Stavins, 1999; Nishimura, 2002). The public debate in the United States needs to go beyond the narrow preoccupation with the business aspects of the prospective international emission permit market and profits and risks to multilateral corporations in this new business frontier, if the United States is to become a responsible and constructive member of a lasting international regulatory regime governing the global commons called the earth atmosphere. As imperfect and fraught with political machinations as it may be, UNFCCC and its associated forums remain the most open venue available to the world community for conducting informed discussions on how to address the problem of global warming. By turning its back on this place of collective learning and negotiating, the Bush administration only revealed to the world that it sorely lacks an understanding of the truly global roots and ramifications of all "national" environmental questions.

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CHAPTER 4. BUSH AND THE ENVIRONMENT

by Jaina L. Moan and Zachary A. Smith

This chapter will examine the George W. Bush administration's approach to environmental protection and regulation. It will discuss four areas of environmental and natural resource policy: water, air and climate, energy and public lands. The policies that are supported by the Bush administration in these four areas are shown to be supported by three approaches to environmental problems: (1) deregulation, (2) the use of market mechanisms and (3) a transfer of regulatory power to the states. Furthermore, two themes dominate the Bush administration's approach, the use of "sound" science and national security. This chapter will frame recent environmental events within this context.

INTRODUCTION

President George W. Bush's record on environmental policy is one that has seemingly mixed motives. On one hand, the Bush administration claims to support a healthy environment. On the other, Bush has proposed many rollbacks to Clinton's environmental policies. Much of the progress that had been established by Clinton, such as the roadless rule for national forests, or standards for drinking water has been challenged by the Bush administration. The administration has been criticized by many environmental groups for rolling back environmental policies for the benefit of oil, gas, logging and mining industries. At

the same time, those industries have championed the efforts of the Bush administration as allowing flexibility for their environmental programs.

This chapter will discuss the major influences that the Bush administration has had on environmental policy. These influences range from energy to land use; from air to water. The policies that Bush has promoted are based primarily on three principles: (1) a transfer of regulatory power to the states; (2) deregulation (the elimination of “red tape”) and (3) utilization of market mechanisms to address environmental problems.¹ These three principles have been pursued simultaneously with two fundamental themes used by the administration to promote its environmental approach: (1) Bush’s “sound” science and faith in technology (this doctrine has been used to justify delays in implementation of environmental policies by claiming that more research is needed to address the issues) and (2) national security (Bush has used this goal to promote his energy policies and exempt the military from following environmental regulations).

This chapter will provide a narrative chronology of the Bush environmental record. We will examine the assumption of the underlying foundations noted above within the themes of “sound” science and national security and in the context of four environmental policy areas. First, Bush’s approach to water policy will be addressed. Then, Bush’s climate and air policies will be examined. Third, the energy policies that have been proposed by the administration will be discussed in the context of their effects on land use. Finally, Bush’s public lands policies will be outlined.

BUSH AND WATER

The practice of deregulation, transfer of regulatory power to the states and the use of market incentives are all found in the administration’s approach to water policy. This section will discuss how the administration has employed the above tactics under the guise of “sound” science.²

1. Mark Hertsgaard. “Trashing the Environment: Kyoto was just a start for Bush” *Nation* 276:4 pg. 15, February 3, 2003.

2. Chris Mooney. “Beware ‘Sound Science.’ It’s Doublespeak for Trouble” *Washington Post* February 29, 2004.

Deregulation and the Clean Water Act

The Clean Water Act, originally passed in 1972, and the Safe Drinking Water Act (SDWA), passed in 1974, are the primary laws that regulate water quality and pollution in the United States.¹ The Clean Water Act requires the issuance of permits by the EPA for the discharge of pollutants into water.² The SDWA requires the regulation and monitoring of contaminants in public water systems. The Bush administration has proposed changes to water regulations for arsenic in drinking water and changes that would deregulate the permitting laws found in the Clean Water Act.

The standard required for arsenic in drinking water has been a long studied issue. Soon after being sworn into office, the Bush administration announced that it was going to withdraw a 10 ppb standard for arsenic in drinking water set during the Clinton administration. Bush noted that there was “no consensus” on what level the standard should be at, and hence further investigation was needed to determine if the standard should be lowered. The level had been originally set at 50 ppb in 1942, but arsenic has been recently linked to cancer and it was widely felt that the original standard was not strict enough.³ In 2001, the Environmental Protection Agency (EPA) requested that the National Academy of Sciences (NAS) further examine the risks of arsenic in water to determine if the standard of 10 ppb was appropriate.⁴ In September of 2001, the NAS released a report on arsenic levels that concluded that the standard of 10 ppb was not strict enough. The National Research Council of the National Academies found that the risk of developing bladder and lung cancer significantly increased for men and women consuming daily between 3 and 20 parts per billion arsenic in drinking water.⁵ Although the administration had been claiming that results from the study might result in a stricter standard for

1. Clean Water Act, 33 U.S.C.A. §§ 1251-1387; Safe Drinking Water Act, 42 U.S.C.A. §§ 300f-300j-9.

2. 33 U.S.C. §§ 1342 (a) (b)

3. Chuck Fox. “Arsenic and Old Laws,” *The New York Times* March 22, 2001.

4. National Academies, News Release 9/11/2001 “New Evidence Confirms Cancer Risk from Arsenic in Drinking Water” <http://www4.nationalacademies.org/news/nsf/isbn/0309076293?OpenDocument>.

5. *Ibid.* For individuals consuming 3 ppb, the risk for developing cancer was found to be 1 in 1,000; for those consuming 10 ppb, the risk was found to be greater than 3 in 1,000. See also, Katharine Seelye, “Arsenic Standard for Water is Too Lax.” *The New York Times* September 11, 2001.

arsenic, maybe even as low as 3ppb, the level of 10ppb in drinking water was adopted in November of 2001.¹

In addition to attempting a change in arsenic standards, the administration endorsed changes to the Clean Water Act that would have revised the permitting rules followed by the United States Army Corps of Engineers (USACE). Under Section 404 of the Clean Water Act, the USACE has the authority to grant permits for the dredging and filling of materials into navigable waters, including wetland areas.² In January of 2002, the USACE, under the endorsement of the Bush administration revised the permitting procedures required for the dredging and filling of wetland areas, making it easier for mining companies and developers to obtain “general permits” instead of the “individual permits” that require greater environmental compliance.³ The changes to the permitting process for Nationwide Permits (NWP) eliminated some restrictions to the issuance of general permits for development as well as redefined some language associated with the issuance of these permits.⁴ This procedural change sparked protest from two federal agencies. The EPA and the US Fish and Wildlife Service both issued formal comments to the US Army Corps of Engineers opposing the relaxation of permit requirements. In addition to those agencies, as would be expected, many environmental groups opposed the changes in the Corps procedures.

A major area of concern for these groups was focused on the practice of mountain top mining and excess spoil valley fill operations (MTM/VF) in the Appalachia region. Mountaintop mining is a surface mining process that strips large portions of land off of mountaintops to reach low sulfur coal veins found below. Valley fill occurs because the rock and debris that is removed from the surface is often difficult and costly to return to the mountain and so, instead, it is placed in adjoining valleys.⁵

1. Katharine Seelye “E.P.A. to Adopt Clinton Arsenic Standard,” *The New York Times*. November 1, 2001.

2. 33 U.S.C.A. 1344 (a).

3. Michael Grunwald “White House Relaxes Rules On Protection of Wetlands; Two Agencies Criticized Revision of Permit Laws” *Washington Post*, January 15, 2002.

4. Jones & Stokes “Environmental Update: USACE Modifies Nationwide Permit Program.” February 2002 <http://www.jonesandstokes.com/resource/2-02.pdf>.

5. Mountaintop Mining/Valley Fill Draft EIS, Executive Summary. 2003. <http://www.epa.gov/region3/mtntop/pdf/Executive%20Summary.pdf>.

The valley fill procedure has been criticized for its adverse effects on headwater streams.¹ Environmental groups were concerned that the 2002 USACE rule changes for permitting made it easier for mining companies to obtain permits for MTM/VF. In particular, the changes allow for a company to conduct mining operations closer than the previous limit of 100 feet.² Soon after the rule change was announced, US District Judge Charles H. Haden II found that MTM/VF practices were a violation of the Clean Water Act and reversed the Bush rule.³

Transfer of Regulatory Power to States

The Bush administration has also supported a transfer of regulatory power for water protection to the states. This approach to environmental monitoring and regulation is seen in proposed revisions to the Clean Water Act as well as in budget proposals. For instance, the 2002 budget proposal decreased the EPA's enforcement budget by \$10 million. Instead, \$25 million in grants was allocated to the states for enforcement programs as well as \$25 million for state environmental assessments.⁴

The administration has also attempted to shift jurisdiction for wetlands protection to the states. In 2001, the US Supreme Court ruled in *Solid Waste Agency of Northern Cook County v. Corps of Engineers* that the US Army Corps of Engineers did not have the jurisdiction to regulate an isolated pond under the "migratory bird rule," because the water body did not have connections to a navigable waterway.⁵ Seeing an opportunity, the Bush administration decided to interpret this decision broadly and developed a new rule for the implementation of the Clean Water Act that resulted in the removal of 20% of wetlands from federal jurisdiction. The new regulations would have shifted the responsibility of water protection for these wetland areas to the states. The EPA released a report

1. Ibid. The draft Environmental Impact Statement (EIS) released by several federal and state agencies including the EPA, the USACE, the Fish and Wildlife Service (FWS), the West Virginia Department of Environmental Protection (WVDEP) and the Office of Surface Mining (OSM) estimated that mountaintop removal has directly impacted 1200 miles of headwater streams and that biological assemblages are often less diverse in watersheds impacted by MTM/VF.

2. "Decapitating Appalachia" Editorial desk, *The New York Times* January 13, 2004.

3. "Saving Mountain Streams" Editorial desk, *Washington Post* May 28, 2002.

4. Eric Pianin and Michael Grunwald "Bush Plan Shifts Power Over Polluters to States; EPA's Enforcement Activities Would Be Scaled Back" *Washington Post* April 10, 2001.

5. Douglas Jehl "U.S. Plan Could Ease Limits on Wetlands Development," *The New York Times* January 11, 2003.

that detailed the changes and the impacts of allowing 20 million acres of wetlands to be released from federal regulation. It outlined “hypothetical” situations in which as many as 3 million people could lose any regulatory protection for their water supplies. The EPA further found that the changes to the Clean Water Act would leave many small streams with no pollution protection whatsoever.¹ The report went on to estimate that breeding ducks and as many as forty endangered species would be adversely affected by the subsequent poor water pollution enforcement should the new interpretation of federal responsibility be allowed to stand.² Opposition to the new wetland guidelines, primarily from environmental and hunting groups, was strong. More than 130,000 comments were received by the government opposing the new rules.³ Due to this opposition, this regulatory change was abandoned in December of 2003.⁴

The Bush administration also planned on increasing state responsibility for pollution regulation and enforcement. In the summer of 2002, the EPA announced that it would make significant changes to a Clinton administration rule that required federal oversight in state Total Maximum Daily Load (TMDL) programs.⁵ TMDL is a requirement of the Clean Water Act that mandates states to address pollution problems found in entire water bodies rather than focusing on individual polluters. The program is designed to address non-point sources of pollution (those that cannot be directly linked to an individual pollution, but rather occur as runoff or deposition). The Clinton administration had issued a rule requiring EPA approval for state implementation of TMDL regulatory plans to restore “impaired water bodies.”⁶ In addition to EPA oversight of state programs, the Clinton rule established EPA involvement in failing TMDL programs. Christine Whitman, the EPA administrator, announced in 2002 that the EPA was proposing new changes to TMDL programs allowing for greater state discretion and broader planning for pollution controls where states focus on watersheds instead of individual water bodies.⁷

1. Anita Huslin “EPA Report Opposes Easing of Water Rules” *Washington Post* September 5, 2003.

2. *Ibid.*

3. Eric Pianin “EPA Scraps Changes To Clean Water Act; Plans Would Have Reduced Protection,” *Washington Post* December 17, 2003.

4. *Ibid.*

5. Michael Grunwald “EPA Mulls New Water Cleanup Rule,” *Washington Post* July 13, 2002.

6. *Ibid.*

7. *Ibid.*

In addition to transferring regulatory authority to the states, the administration also pursued market solutions for water policy. To further reduce pollution, the EPA proposed a water quality trading policy in January of 2003. The proposal stated that economic incentives could be used to reduce non-point source pollution as agricultural and industrial operations could meet regulatory requirements by purchasing pollution credits from other facilities that have exceeded their requirements.¹ One of the problems that has been highlighted with the proposed approach to the water quality trading policy is that a cap on the level of pollution is not specified.²

River Management Policies

In addition to relying on reasons of “sound” science to support regulatory change, the Bush administration has been accused of dismissing reputable scientific data for the sake of industry advancement. Management of the Klamath and Missouri rivers provides good evidence to support this allegation. The Klamath River is an important water resource for many Northwestern states. It is also home to the coho salmon, a threatened fish species. In the fall of 2002, 33,000 fish, mostly Chinook salmon, but also some coho salmon, perished in the Lower Klamath. The diversions along the Klamath River had not left enough water in the stream to support the fish populations.³ It was reported that the Bush administration had disregarded the warnings of a prominent fish biologist, Michael Kelly, hired by the United States Fish and Wildlife Service to study the impact of flow on wildlife within the river.⁴ The findings of the Kelly’s research team indicated that allowing greater diversions from the Klamath could result in detrimental effects to the fish population. The administration disregarded the warnings and allowed diversions to farmers to proceed, resulting in the largest fish kill in history.⁵

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1. Eric Pianin “EPA to Allow Polluters to Buy Clean Water Credits; Environmental Groups Say Policy Weakens Law,” *Washington Post* January 14, 2003.
 2. Environmental Defense website, “New Water Pollution Trading Program Lacks Cap To Ensure Effectiveness.” <http://www.environmentaldefense.org/pressrelease.cfm?ContentID=2603> 1/13/2003.
 3. Dean E. Murphy “California Report Supports Critics of Water Diversion,” *The New York Times* January 7, 2003.
 4. “U.S. brushes off Klamath whistleblowers complaints,” *Associated Press* story 23 March 2003.
 5. *Ibid.*

A similar approach to river management has been taken with the Missouri River.¹ The Missouri River has been manipulated with the use of dams and reservoirs so that it has become a deep channel with a constant flow, to support the barge industry. The Fish and Wildlife Service has concluded in numerous studies that more natural ebbs and flows must be restored in the river if an endangered species of fish, the pallid sturgeon, is to survive. The plan to restore more natural flows was scheduled to go into effect in 2003, but in June of 2002, the Bush administration halted the plan to alter the flow.² The USACE was pressured by the administration to not reduce the flows in the Missouri (a plan that would have created the necessary river conditions for fish survival) even after a federal judge ordered that the reduced flow plan be implemented.³ These approaches towards river management have caused many environmental groups to criticize the rhetoric of “sound” science promoted by the Bush administration. In these cases, critics argue, the administration has disregarded scientific evidence.

BUSH, AIR AND CLIMATE CHANGE

The Bush administration’s clean air policies are an example of using market incentives for environmental protection as well as the deregulation of environmental policy. Electric utility industries are the primary beneficiaries of these policies as emissions from power plants are the main targets of regulations by the Clean Air Act. Some of these emissions, such as CO₂, have been cited for their impacts on global climate change. The Bush administration has responded to the climate change issue with a call for more research (i.e. “sound” science). This section will examine the proposal by the Bush administration for amending the Clean Air Act. It will also provide a description of the administration’s approach to climate change.

Deregulation and the Clean Air Act

The Clean Air Act, originally passed in 1970 and amended in 1977 and 1990, is the fundamental environmental law that regulates air pollution in the United

1. Grunwald, Michael. “Washed away,” *New Republic* 10/27/2003. 229:17. 16-18.
2. “Delay in Scheme To Reorder River,” Associated Press Story June 14, 2002.
3. Grunwald, Michael, *ibid*.

States.¹ The legislation established “national ambient air quality standards” for emissions from stationary and mobile pollution sources. Compliance with this act has been met with complaints from officials representing oil, gas, mining and electric companies. These industries criticize that overlapping and contradictory regulations found in the legislation make it difficult and therefore expensive for them to comply with the mandate.² In response to industry concerns, the Bush administration proposed revisions to the Clean Air Act that replace the command and control system with market controls for regulating emissions.³

The Clear Skies Initiative, proposed by the administration in February of 2002, is an attempt to employ market mechanisms as solutions to industrial emissions.⁴ This plan involves creating a cap-and-trade system for three harmful emissions (mercury, nitrogen oxides and sulfur dioxide) from the electric power industry.⁵ The cap-and-trade system would allow polluters to apply for permits to pollute a specified, limited (or capped) amount. The polluters would be able to then sell (trade) the permits to other polluters, creating an incentive to pollute less as they would be able to make money on their pollution credits.⁶ A cap-and-trade system can work to produce long-term reductions in pollution as the number of permits allowed by the federal government is gradually reduced.⁷ The administration proposed that the Clear Skies plan will reduce emissions of SO₂, NO_x and mercury by 73%, 67%, and 69% respectively.⁸

1. 42 U.S.C.A. §§ 7401-7626; Pub.L. No. 95-95 (1977 Amendments); Pub.L. No. 101-549 (1990 Amendments).

2. Margaret Kriz. “Burning Questions,” *National Journal* 34:14:976-981. April 2002.

3. *Ibid.*

4. In February of 2003, The Clear Skies Act of 2003 was reintroduced to Congress. It is pending in the U.S. House of Representatives (HR 999) and the U.S. Senate (S. 485) Environmental Protection Agency “Clear Skies, Legislative Information” <http://www.epa.gov/air/clearskies/legis.html> July 2003.

5. Effects of Mercury, SO₂ and NO_x: Mercury is emitted from smokestacks in vapor form. It falls into lakes and streams and accumulates in fish as methylmercury. The consumption of fish with high levels of methylmercury is toxic to humans as it induces brain tumors and neurological defects in developing fetuses. SO₂ is another emission for electric power plants. It is one of the causes of acid rain. NO_x, or nitrogen oxides are emitted from power plants and automobiles. They react with volatile organic compounds in the atmosphere to form smog. There is evidence that NO_x, when it remains a particulate in the atmosphere, can cause respiratory ailments. See also Margaret Kriz. “Burning Questions,” *National Journal* 34:14:976-981. April 2002.

6. Paul Krugman. “Bad Air Days,” *The New York Times* April 26, 2002.

7. *Ibid.*

8. Executive Summary, The Clear Skies Initiative, <http://www.whitehouse.gov/news/releases/2002/02/clearskies.html>. February 2002.

The cap-and-trade system promoted by the Clear Skies Initiative is based off of a similar policy that was established for SO₂ emissions in the 1990 Acid Rain Program. The 1990 program has shown considerable success in reducing emissions of SO₂. One of the problems with the Clear Skies proposal is that the time period for cap reductions is considerably lengthy when compared to the cap-reducing periods for the Acid Rain Program. In the Clear Skies proposal, cap declines are set to go into effect at 2010 and 2018, where 2018 is the deadline for the reductions.¹ In comparison, the 1990 Acid Rain Program scheduled cap declines at five (1995) and ten (2000) years after the implementation of the program.² The shorter cap reduction periods for the 1990 program have undoubtedly contributed to the programs success.

The Clear Skies Plan has also been criticized for masking a larger, more important regulatory change initiated by the EPA under the direction of the Bush administration. In November of 2002, Jeffery Holmstead, assistant administrator for the EPA, announced a significant rule change to the New Source Review (NSR) provision of the Clean Air Act, a specification that requires pollution control technology to be installed as upgrades (or new additions) are made to old power plants (those built before 1977).³ During the 1990s, the EPA began to enforce the NSR provision citing over seventy power plants in violation of the Clean Air Act. In response, utility companies argued that NSR does not specify between “routine maintenance” and upgrades. The EPA, in response to industry complaints, redefined the NSR provision by establishing that companies could spend up to 20% of the cost of a generating unit without having to apply for a NSR permit.⁴ Critics of the rule change noted that because the NSR threshold for routine maintenance was so high, pollution controls would rarely need to be installed. A federal appeals court in 2003 suspended the implementation of the rule change because of pending lawsuits brought against the rule by several Northeastern states.

The changes to NSR were also complemented by resource restrictions for the enforcement division of the EPA. In 2002, Bush requested that the

1. Ibid.

2. Leslie Alm. *Crossing Borders, Crossing Boundaries: The Role of Scientists in the U.S. Acid Rain Debate 2000*. Praeger Publishers. Westport, CT. pg. 26.

3. Bruce Barcott, “Changing All the Rules: How the Bush administration quietly — and radically — transformed the nation’s clean air policy” *The New York Times Magazine* April 4, 2004.

4. Ibid.

enforcement arm of the EPA be restructured and proposed to cut the enforcement budget of the EPA by as much as 13%.¹ In the spring of 2003, the enforcement strategy of the EPA was reorganized, causing a drop of 50 cases where the agency was investigating violations of the Clean Air Act.² The changes caused the director of EPA's Office of Regulatory Enforcement, Eric Schaffer, to resign citing that he could not effectively perform his duties of environmental enforcement because of these changes.³

Climate Change and "Sound" Science

Climate change is an issue that the Bush administration has addressed with a call for "sound science." Carbon dioxide emissions from industry are thought to be one of the main causes of global warming. It has been estimated that the United States is the largest producer of carbon emissions from fossil fuels.⁴ Despite a campaign promise to address the issue of CO₂ emissions,⁵ Bush announced in March that he was not going to pursue regulation of the greenhouse gas.⁶ On March 28, 2001, Christie Whitman, the head of the EPA announced that the United States was backing out of the Kyoto Protocol, an international treaty signed by over 100 countries as a commitment to reduce CO₂ emissions. The treaty would have required that the US cut its emissions of carbon dioxide by one-third by the year 2012.⁷ Instead of following the treaty, Whitman stated that that the administration was reviewing other ways in which the United States may address the issue of global warming.⁸

The United States backing out of the Kyoto Protocol caused uproar in both the environmental and international communities. To many nations, it

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1. Eric Schaffer. "Clearing the Air," *Washington Monthly* Jul/Aug 2002. Vol 34, Issue 7/8. Pg. 20-26.
 2. Christopher Drew and Richard A. Oppel, Jr. "Lawyers at EPA say it will drop pollution cases," *The New York Times*. 11/6/2003.
 3. Eric Schaffer. *Ibid*.
 4. Zachary Smith. *The Environmental Policy Paradox, 4th Edition*. Prentice Hall, Upper Saddle River, New Jersey, 2004.
 5. Andrew C. Revkin. "Despite Opposition in Party, Bush to Seek Emission Cuts" *New York Times* March 10, 2001.
 6. Douglas Jehl. "U.S. Going Empty-Handed to Meeting on Global Warming," *The New York Times*, March 29th, 2001. And Mark Hertsgaard "Trashing the Environment: Kyoto was just a start for Bush," *The Nation* 276:4 pg. 15, February 3, 2003.
 7. "U.S. Won't Follow Climate Treaty Provisions" *Associated Press*. March, 28, 2001.
 8. *Ibid*.

appeared as an unwise unilateral action. The European Union even formally requested that the United States reconsider its decision, but the Bush administration refused.¹ Instead the United States launched its own investigation into how it may address the problem of carbon emissions. In February of 2002, the administration released a plan that provided incentives for technology that would lead to reductions in emissions. However, the plan was criticized as it set emission rates as a percentage of economic growth. Critics noted that this plan doesn't reduce emissions, it only slows them.² Additionally, the administration announced that it would be ten years before any decision regarding mandatory regulations of emissions of greenhouse gases would be made because of the need for further information.³

BUSH AND ENERGY

Because energy policy carries with it many environmental consequences, the goals of the nation's energy policy are a reflection of its approach to the environment. The energy policy of the Bush administration is centered on the goal of securing supplies of fossil fuels. Vice President Dick Cheney promoted the position of the Bush administration well when he announced that the main energy problem that the nation will face is one of supply.⁴ This section will examine a key element of the administration's energy policy, drilling in the Arctic National Wildlife Refuge. The proposed drilling has become a very controversial environmental component of the policy. This section will highlight how the administration has used national security as justification for the drilling and has mitigated the potential environmental damage that may be caused with the application of "sound" science.

1. Douglas Jehl. "U.S. Rebuffs European Plea Not to Abandon Climate Pact" *The New York Times* April 4, 2001.

2. Andrew C. Revkin. "U.S. Planning Gradual Curb On Emissions, Taking Years" *The New York Times* February 6, 2002.

3. Scully, Malcolm G. *Chronicle of Higher Education* "Of Patronage and Exploitation" 2/21/2003.

4. Joseph Kahn. "Cheney Promotes Increasing Supply as Energy Policy" *The New York Times* May 1, 2001.

National Security and ANWR

Throughout Bush's presidential term, one of the most controversial energy topics has been drilling for oil in the Arctic National Wildlife Refuge. The issue of drilling for oil in this stretch of coastal Alaskan land has been a fundamental part of the energy plan proposed by the Bush administration. This 19 million acre stretch of land is not a barren wasteland, as many would claim. The tundra springs to life during the summer months when many species of migratory animals travel to the refuge to breed. An estimated 180 species of migratory birds and 129,000 Porcupine Caribou migrate to the refuge to breed in the summer. The Gwich'in people also inhabit the area; the animals are important for the livelihood and spirituality of the tribe.¹

The administration has argued that as energy needs in the United States grow, the oil that lies underneath this wildlife refuge will be integral for maintaining supply. More notably, the Bush administration has promoted arctic drilling for its importance to national security. Soon after September 11, the administration appealed to Congress to open ANWR emphasizing the need to pass legislation that would allow the United States to rely less on sources of foreign oil. After meeting with his cabinet a month after the terrorist attacks, Bush told the press, "the less dependent we are on foreign sources of crude oil, the more secure we are at home."² Despite this rhetoric, however, the administration failed to urge Congress to increase the required average gas mileage for auto-makers, a move that could have significantly reduced the amount of oil consumed in the United States.

Environmental groups are strongly opposed to drilling in ANWR. Such groups often cite a study performed by the USGS that found that oil development would "most likely" restrict the calving grounds of the caribou as well as result in higher calf mortality rates and weight reductions in both pregnant females and calves.³ The Bush administration has dismissed the report as being based on outdated drilling practices and has argued that the administration upheld the need for careful environmental consideration when drilling. To alleviate environmental concerns, the administration has asserted that technology

1. William Cronon. "Neither Barren Nor Remote" *The New York Times* February 28, 2001.

2. Katharine Q. Seelye. "Bush Promotes Energy Bill as Security Issue" *The New York Times* October 12, 2001.

3. Sam Howe Verhovek. "Drilling Could Hurt Wildlife, Federal Study of Arctic Says" *The New York Times* March 30, 2002.

(i.e. “sound” science) has made exploring, drilling and transporting oil more efficient and less damaging to the environment.¹ Mark Pfeifle, a spokesperson for the Department of the Interior noted that “[The report] demonstrates that with new technology, tough regulations and common-sense management, we can protect wildlife and produce energy.”²

Concern for wildlife is not the only criticism that environmental groups have expressed. In addition, they contend that the costs for drilling in the refuge far outweigh the benefits. The amount of oil that could be recovered from the refuge is estimated by the USGS to be between 5.7 and 16.0 billion barrels with a mean average of 10.4 billion barrels.³ This small amount of oil is only enough to support the US fuel supply for one year, at best.⁴

Critics of the energy bill also note that ANWR is only a part of Bush’s energy policy. Some claim that ANWR is in part a distraction from the other drilling sites that Bush has proposed. The energy policy also recommends over 50 new drilling areas in the Western United States, most of them in the Rockies and some in National Parks.⁵ It also grants tax breaks to oil and gas companies for greater production from offshore and marginal wells and provides money for coal mining technology.⁶

So far, the energy proposal, with the authorization to drill in the Arctic, has not been able to obtain Congressional approval. The House of Representatives voted for the measure as part of a budget proposal, but it was voted down in the Senate by a narrow margin in the spring of 2003. In 2004, the House again supported another energy bill that continued the endorsement for ANWR drilling while the Senate is drafted its own version of the energy bill.⁷

1. Andrew C. Revkin. “Hunting for Oil: New Precision, Less Pollution” *The New York Times* January 30, 2001.

2. Ibid.

3. United States Geological Survey. “Arctic National Wildlife Refuge, 1002 Area, Petroleum Assessment, 1998, Including Economic Analysis” <http://pubs.usgs.gov/fs/fs-0028-01/fs-0028-01.htm>

4. William Cronon. “Neither Barren Nor Remote.” *The New York Times* February 28, 2001 AND Katharine Seelye “Bush Promotes Energy Bill as Security Issue,” *The New York Times* October 12, 2001.

5. Katharine Q. Seelye. “Bush Favors Dozens of Sites for Exploration,” *The New York Times* April 19, 2002.

6. Carl Hulse “House Endorses Oil Drilling in Arctic National Wildlife Refuge,” *The New York Times* April 11, 2003.

7. Ibid.

The tax breaks and the emphasis for oil and gas development regardless of the cost to wildlife have caused many critics to claim that the administration is being dominated by industry interests. This suspicion was sparked early in the administration with the formation of the Energy Task Force headed by Vice President Dick Cheney. The main goal of the task force was to find ways to secure the energy supply for the United States. When the task force released its report, the General Accounting Office (GAO) requested that Cheney release information regarding the executives that advised the energy panel in closed door meetings. The GAO requested that a list of those who had contributed recommendations to the panel be released to the public.¹ Cheney refused and the GAO sought a court order to obtain the documents. A federal judge ordered the release of documents in 2002.² It was uncovered from those documents that the energy Task Force had met with 18 of the energy industry's 25 top contributors to the Republican party.³

BUSH AND PUBLIC LANDS POLICY

Bush's approach to conservation and forest policy has also been criticized as being overly friendly to industry and logging interests. The principle of deregulation has been prevalent in Bush's approach to managing public lands. This section will discuss three public lands policy issues that have potential detrimental environmental effects: the roadless rule, snowmobiles in Yellowstone and the Healthy Forests Restoration Act.

The Roadless Rule

It was rumored early in Bush's presidency that the administration planned on reversing many of the conservation measures enacted by the Clinton administration. One of the most disputed was the roadless rules that prevented roads from being constructed on almost 60 million acres of public lands. The Bush administration did not pull back these regulations as many environmentalists

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1. Joseph Kahn. "Cheney Withholds List of Those Who Spoke to Energy Panel," *The New York Times* June 26, 2001.
 2. Don Van Natta, Jr. "Judge Orders Release of Energy Panel's Files" *The New York Times* February 28, 2002.
 3. Don Van Natta, Jr. and Neela Banerjee "Top G.O.P. Donors In Energy Industry Met Cheney Panel," *The New York Times* March 1, 2002.

feared. Rather, the Department of the Interior provided that exemptions to the rule could be requested by governors. In addition, the administration requested a federal exemption from the roadless rule for the Tongass National Forest in Alaska.¹ In December of 2003, the Bush administration was successful in exempting the Tongass from the “roadless” rule to allow logging on 300,000 acres of the 17 million acre forest. The Administration argued that it would not harm the integrity of the forests because the proposed area to log only accounted for 4% of the forest.² This argument has been criticized to be inaccurate because it does not adequately account for the damage to the forest that road-building would cause.³ The area that is scheduled to be opened for logging is not at the edge of the forest. In order to reach the area for logging, more than 50% of the forest would be developed by roads. In addition, the decision to exempt the Tongass from the roadless rule was criticized by environmental groups to be a handout to the logging industry as the Tongass has long been viewed as fertile harvest ground. Critics have also noted that most of the timber harvested in the Tongass is shipped to Japan for processing and sale.⁴

Snowmobile Bans

Another rollback of a Clinton-era rule that would have protected public land was the 2001 reversal of the snowmobile ban in Yellowstone and Grand Teton National Parks.⁵ This ban was scheduled to be in effect by 2003 because of the harm that loud noise and pollution has been shown to cause to the wildlife (particularly the bison). The National Park Service had released a study showing that the best way to protect the park’s wildlife and air quality was by banning

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1. Katharine Q. Seelye. “Bush to Prohibit Building Roads Inside Forests” *The New York Times* June 10, 2003.
 2. Jennifer Lee. “Administration Is Exempting Alaska Forest From Protection” *The New York Times* December 24, 2003.
 3. Roadbuilding in national forests has been shown to have detrimental effects to ecosystems, roads often increase erosion and increase the amount of sediment that is carried to watersheds. In addition, roads have damaging effects on wildlife and they have been shown to introduce exotic plant species into pristine forest ecosystems. David Havlick 2002 *No Place Distant* Island Press, Washington.
 4. Alaska Rainforest Campaign. “Rain Forest Info” <http://www.akrain.org/rainforest/info/qna.asp> 1999.
 5. Katharine Seelye. “Bush May Lift Park’s Snowmobile Ban” *The New York Times* June 24, 2001.

snowmobiles altogether. The Bush administration opposed this assessment noting that technology had allowed for quieter, more efficient snowmobiles.¹ Under the direction of the Bush administration, the National Park Service composed new rules allowing snowmobile use: 80% of snowmobile excursions in the park needed to be led by a guide where the remaining 20% could be allotted to independent parties.² However, a federal judge overturned Bush's rules and ordered a ban to be put in place by 2005.³

Healthy Forests Restoration Act

The Bush administration is also criticized for favoring a deregulatory approach in the area of forest policy. In 2002, the Healthy Forests Initiative was proposed by the administration in the wake of several devastating fires that ravaged the Western United States. A combination of extreme drought conditions and a hundred years of poor forest management has caused many forests in the West to become extremely susceptible to wildfire. The Healthy Forests Initiative was passed as the Healthy Forests Restoration Act in the fall of 2003. Bush signed the act into law in December of 2003.⁴

The White House posited that the Healthy Forest Restoration Act would strengthen public participation in forest management and reduce the complexity of environmental analyses needed for forest restoration projects in order to reduce the risk of catastrophic wildfires.⁵ Many environmental groups criticized the plan for avoiding the National Environmental Policy Act (NEPA) and allowing logging companies easier access for harvesting timber from national forests. The Wilderness Society criticized the law, noting that it allowed timber companies to conduct logging projects with broadly defined restrictions.⁶ In addition, the Wilderness Society contended that the law avoids NEPA safe-

1. Katharine Q. Seelye. "Approval of Snowmobiles Contradicts Park Service Study" *The New York Times* January 31, 2003.

2. Jim Robbins. "New Snowmobile Rules Roil Yellowstone" *The New York Times* December 22, 2003.

3. *Ibid.*

4. H.R. 1904 "The Healthy Forests Restoration Act of 2003" <http://www.whitehouse.gov/infocus/healthyforests/December,2003>.

5. *Ibid.*

6. The Wilderness Society "Analysis of Healthy Forests Restoration Act of 2003" <http://www.wilderness.org/Library/Documents/McInnis-WaldenBillAnalysis.cfm> 2003.

guards by providing exemptions for logging companies from environmental assessment regulations and allowing federal agencies to disregard proposed alternatives to fuel reduction projects.¹ Furthermore, they contend that the public's right to appeal a fuel reduction project is reduced through the "administrative process" for appeals that the Forest Service is required to establish. They note that the "administrative process" undermines the traditional appeals process.²

"SOUND" SCIENCE AND NATIONAL SECURITY

As we have seen, the Bush administration has used the argument of "sound" science as a tool to justify its practices of deregulation and environmental rollbacks. Bush's call for "sound" science has often resulted in wasted efforts to prove what was already known, as was the case with the arsenic levels in drinking water. Other times, the "sound" science of the administration seems to embody a faith that technology will prevail over environmental pollution. Such an assurance was applied to drilling in ANWR. Still, in other situations, the administration has disregarded science altogether, as was the case with the management of the Klamath and Missouri rivers. Criticisms of the environmental policies of the Bush administration demonstrate that its "sound" science may not be a panacea for our environmental problems. In February of 2004, a group of scientists agreed with this assessment. The Union of Concerned Scientists, a nonprofit alliance of scientists and citizens that includes twenty Nobel laureates, issued a formal statement that criticized the administration for "distorting" science-based information to fit its agenda.³

National security is another reason used by the Bush administration for its approach to environmental policies. The national security argument is generally applied to areas of energy policy as the example of drilling in ANWR demonstrated. Additionally, there are several instances where the Bush administration has invoked this rationale for relaxing environmental regulations for the

1. Ibid.

2. Ibid.

3. Mark Ingebretsen. "White House Censors, Distorts Scientific Data, Scientists Say" *The Wall Street Journal* February 19, 2004, and Union of Concerned Scientists website, "About UCS" <http://www.ucsusa.org/ucs/about/index.cfm> December 2003 and James Glanz "Scientists Say Administration Distorts Facts," *The New York Times* February 19, 2004.

Department of Defense and defense contractors.¹ Congressional critics have spoken out against the use of national security as a reason for eroding environmental policy. For example, in June of 2002, Representative Tom Allen of Maine called on the President to address environmental issues in addition to issues of national security, noting that a “clean, healthy environment is an essential part of a secure nation.”²

CONCLUSION

This chapter has discussed the George W. Bush administration’s approaches to managing the environment. In the areas of water, air, energy and public lands policy, the administration has relied upon reasons of “sound” science and national security to employ environmental policies based largely on the ideas of deregulation, federalism and market incentives. The policies that have been promoted by the administration have been criticized by environmental groups and prominent scientists to be ineffective and not based on the best available science. It is clear from the overview provided here that President Bush has spontaneously changed the direction of environmental regulation in the United States. New regulatory initiatives, whatever their rationale, have consistently been designed to favor industry, energy production and resource user groups. It is difficult not to conclude that the reasons given for regulatory change — “sound science,” “national security,” or “local control” among others — are little more than cover for the administration’s primary motive; benefiting the interests that supported the President’s election. We can expect these policies to continue as long as Bush remains in office.

1. According to the website for Congressman Tom Allen the Bush administration has requested that the DoD be exempted from several important environmental laws including the Endangered Species Act (ESA), the Clean Air Act, and the Resource Conservation and Recovery Act (RCRA). In December of 2002, a one year exemption from the regulations of the Migratory Bird Treaty Act was granted to the Pentagon (Jennifer Lee “Military Seeks Exemptions On Harming Environment” *The New York Times* March 6, 2003). Additionally, in March of 2003, the White House introduced legislation to Congress that would exempt the military from certain sections of the Marine Mammal Protection Act in order to continue practices of underwater bombing and sonar testing. See website for Congressman Tom Allen, <http://tomallen.house.gov/showart.asp?contentID=648&issueID=29> June 2002 and National Defense Authorization Act of 2002 and BushGreenwatch Website “Administration failing to meet bird-bombing deadline” http://www.bushgreenwatch.org/mt_archives/000052.php February 13, 2004.
2. Website for Congressman Tom Allen, <http://tomallen.house.gov/showart.asp?contentID=648&issueID=29>.

BUSH'S FISCAL POLICY: THE SHORT AND THE LONG OF IT

Don Rich

In President Clinton's last Economic Report of the President (2001), the outlook was very rosy, with the first fiscal surplus in a generation, and serious talk of the "problems" of eliminating the national debt entering into public debate. The Congressional Budget Office (2000) similarly projected massive surpluses. Just four and half years later, the fiscal picture was radically bleaker. Both the Administration and the CBO were projecting deficits that would persist over the remainder of the decade and which, while not equaling Reagan era deficits as a percentage of GDP (which most economists regard as the relevant burden measure) were nonetheless radically different from the picture in the public mind as George W. Bush took office. (See Table I) Continuing with the Reagan analogy, Bush came to office promising to cut taxes, like Reagan, and as they were under Reagan, taxes were in fact cut; and in both cases this was financed by very large fiscal deficits. It thus seems logical to begin any inquiry into Bush fiscal policy by asking the question, "Has George W. Bush been a fiscally reckless president?"

The simple change in numbers would seem to suggest so, and yet the work of Aaron Wildavsky, perhaps the greatest student of budgetary matters, suggests some caution, and the need for very detailed analysis. Wildavsky emphasized throughout his work that the complexity of budgeting for an entity as complicated as a modern government rendered it to a certain extent beyond the human minds' capabilities of comprehension. Whether one talks about stacks of dollar bills thousands of miles high in terms of budgets, or even budget deficits,

or in terms of the ineluctable second-order error problem of macroeconomic modeling of the path of fiscal policy variables over ten-year time horizons, Wil-davsky recommends caution. The federal budget is like a thousand oil tankers, driven primarily by three unpredictable beasts: the economy, demography, and security.

The state of the economy, and the changing relationship of the economy to the tax collection process, and therefore the budget, involves an irreducible uncertainty that has important implications for how a president's fiscal policy is evaluated. Simply put, economic growth generates tax revenue, making any fiscal policy look relatively responsible. On the other hand, changes in what the Congressional Budget Office calls "technicals," that is, the relationship of economic growth to tax collection, can make a reasonable president look imprudent. Note that, by CBO estimates, changes in the economy and technicals account for the single largest share of the change in the fiscal picture comparing 2000 to 2005, on the order of 40% of the change.

The majority of the federal budget is driven by demography, in the sense that spending is mandated by law, called "mandatory spending" in the CBO world, and is thus untouched by a president's fiscal policy (unless he changes the mandates). Even mentioning changing the mandates requires a degree of political courage that is rare. Entitlement spending is by its nature antithetical to budgeting, as rather than calculating revenues and then planning expenditures, the causality is reversed, so that eligibility standards for the entitlement generate expenditures, with the revenue to be found as required. Here, a president's fiscal policy should be evaluated mainly on a long-term basis, as the most important fiscal implications of entitlement program changes occur in the long run.

Finally, national security, the preservation of which is the core function of all governments (as without it, there is no government at all), has always driven fiscal policy for as long as there have been governments. The Magna Carta, after all, was essentially a tax protest against a king raising revenues extra legally to fight wars. The work of Robert Lucas has provided extensive evidence of the role of war in the creation of budget deficits in a general comparative sense. The CBO attributes about 20% of the budget deficit to spending increases related homeland defense and the war with Iraq and Afghanistan, with the remainder of the increase in the deficit attributable to increases in non-defense spending, and

of course the tax cuts. The CBO estimates the tax cuts, by CBO accounting, are responsible for 30% of the change in the deficit.

If the federal budget is analogous to a thousand oil tankers, however, the question still remains: is President Bush going to be the budgetary equivalent of Captain Hazelwood, driving the federal government into dangerous shoals imprudently? Evaluating an admittedly complex subject, in a short-run sense the president remains in the dock, not having really addressed the purported problems with Social Security, and for having exacerbated problems with the Medicare program. Overall, per table one, a very significant percentage of the change in the budgetary picture stemmed from the change in the economy, then the tax cuts. Democratic president likely would have adopted fiscal policy measures that also would have widened the deficit, although the extent of the fiscal policy stimulus probably would have been significantly smaller, and the beneficiaries of the policy much different in social and economic status. Finally, the security component of the deficit must be weighed against the backdrop of 9/11. A Gore administration probably would not have invaded Iraq. If you assume that a Democratic administration's fiscal stimulus would have been half as aggressive, and that its foreign policy would have resulted in a continuation of the containment policy towards Iraq and a more intensive Afghan policy, it seems unlikely that you could attribute more than half of the increase in security costs to Bush specific policies. Assuming that the growth in domestic spending can be solely attributed to Bush, what results is that at least approximately one third of the increase in the budget deficit can be attributed to Bush in the sense that the increase in the deficits is attributable to Bush-specific policies that an alternative administration likely would have avoided.

It is the longer run issues with fiscal policy that should be of most concern, and here, the President, and his rivals, would appear to be guilty of wishful thinking at best and negligence at worst. Bush can be credited with at least mentioning the possibility that a problem is looming in the Social Security program, and offering the beginnings of a solution: his adversaries cannot be credited to the same extent. His current proposal to alter Social Security, however, does not really address the solvency issue, although as of April 2005, one senses a willingness to bargain on Social Security that may yet produce a reasonable outcome. The apparent duplicity of his Medicare proposal does him less credit, although from a fiscal balance point of view, there is good reason to expect his adversaries' approach would generate larger, not smaller, budget def-

icits, as his Democratic opponents usually speak of more, not less, generous benefits. The trouble with both parties approach to the issue that the real solvency issues are with Medicare, as the unfunded liability in Social Security pales in comparison to the unfunded liability in Medicare. To the extent that Bush has completely ignored the structural problems with healthcare financing that generate the Medicare problem, his long-term record must be appraised less favorably. At the end of this paper an option on the Social Security side that is not in the public arena will be discussed. It offers a policy proposal that I believe the current administration would be wise to consider, as it would likely reduce the level of otherwise painful adjustments in entitlement spending.

PLAN OF ATTACK

The first parts of this chapter examine Bush's fiscal policy from a macroeconomic theoretical and comparative perspective, after an overview of the core controversy surrounding his fiscal policy, the tax cuts. Throughout this work, there are three separate aspects of fiscal policy to be examined. First, there is the relatively narrow question of fiscal policy familiar to most readers in terms of Keynesian demand management. Second, there is the question of evaluating the role of government in the economy in the more general sense of which services government chooses to provide, how to pay for such services, and the likely long-run impact of such provision and payments. Third, there is the broadest question of all in fiscal policy, which is a general analysis of the policy commitments of government, especially in the security realm, that are quantitatively important in terms of the governments spending, taxing and borrowing needs. While there is overlap among the three, these three aspects of the scale and scope of the government's resource demands on the private sector (which is the most general definition of fiscal policy) are distinct enough analytically to warrant separate treatment.

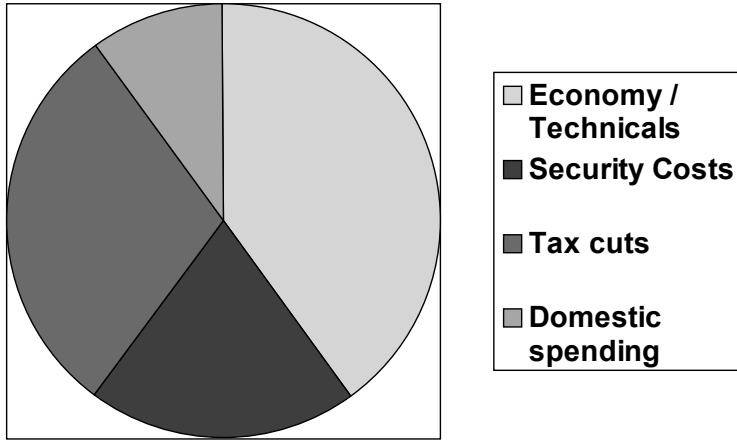
The following analysis will take a primarily macroeconomic perspective because this is the area towards which fiscal policy is targeted in the short run, and where the effects for good and ill are mostly important in the long run, and especially because it is necessary to understand the relationship of the macroeconomy to the budget in order to understand the processes being discussed. This falls into what I believe is the appropriate methodological approach of

political economy as a scientific discipline, in which we draw freely on tools from economics and political science, as needed, to explain complex social processes. I emphasize a comparative perspective because it both illuminates certain critical policy issues, and because a comparative perspective is often vital to understanding, in our case, how good/bad or common/outlier a particular countries' policies appear when compared to the appropriate group, in this case other advanced industrial nations.

After the US budget numbers have been placed in comparative perspective comes a review of that part of the CBO budget estimation process, and the forecasting of fiscal policy variables, that is essential to any evaluation of any president's policies. To understand the numbers, one must delve into their generation and accuracy. Second, the implications of the state of the macroeconomy for fiscal policy options, especially in a comparative and normative sense will be examined. Third, we will examine in particular the president's actions with respect to Medicare policy, because although not part of fiscal policy in an aggregate demand management sense, entitlement programs have potentially massive fiscal implications. Fourth comes an examination of the president's security policy and its fiscal policy implications because, again, although not part of fiscal policy as such, the use of war as an instrument of policy has very serious impacts on budgets, and therefore on the path of fiscal variables and thus the fiscal health of the federal government. Fifth, we will examine more briefly the expansion of domestic discretionary spending, and the curious lack of a veto from President Bush. Finally, after reviewing the broad evidence on the short run aspects of fiscal policy, we examine the longer-term issues in fiscal policy, concluding again, that the president, like most politicians, looks better in a short-run than long run perspective. In concluding, certain issues and proposals relevant to the long-term fiscal health of the US government will be considered.

To reemphasize an important point, some of these topics are not in a strict sense fiscal policy concerns, if one views fiscal policy narrowly in terms of classic Keynesian aggregate demand management policy. Nonetheless, in assessing a president's fiscal prudence, one should consider as a part of fiscal policy broadly considered any decision that in point of fact has significant implications for the future path of budgets and surpluses or deficits. This by its nature involves examining decisions that even though far removed from a Keynesian approach, nonetheless have massive fiscal implications.

Figure 1. Bush Deficit by Contribution



GENERAL OVERVIEW OF BUSH'S TAX CUTS

A core campaign pledge of George W. Bush was a major reduction in taxes. Originally set out at \$550 billion in 1999, the ultimate number came in at \$1.35 trillion, to be phased in as a reduction in marginal rates over ten years, plus an immediate \$85 billion tax rebate (Suskind). The logic behind the tax cuts was most likely driven by the confluence of the prominence of supply-side economists in the Bush camp, especially Lawrence Lindsay, the desire to appeal to the Republican base in the post-Reagan era party in order to defeat John McCain, and of course by the lesson of the defeat of "41," as the Bushes say, due in part to his renegeing on a tax cut.

Bush ("43") thus came to office committed to cutting taxes on policy/ideological grounds as well political grounds. Tax cuts were to be the centerpiece of Bush's fiscal policy. The example of Reagan loomed large, here, as Reagan established his presidential stature in large part by delivering on a campaign promise early in his first term. Given this background, a Bush tax cut was inevitable. Later on, the wisdom of that policy can be considered, but that it was a logical consequence of his election is undeniable. Thus, someone like Paul O'Neill must

surely have known what he was signing on to. O'Neill's work with Ron Suskind (author of *The Price of Loyalty: George W. Bush, the White House, and the Education of Paul O'Neill*) is the only major discussion to come to light of Bush's fiscal policy by a principal, and thus provides an important, if not completely correct, interpretation of events.

Having come to office promising to use the surplus to provide tax relief, the president faced the more difficult problem of implementation. Alan Greenspan and O'Neill, concerned that the surplus might not materialize, wanted any tax cuts to be implemented only upon certain triggers, since cutting taxes in the absence of a surplus would mean a larger deficit (Suskind). This was a view shared by a significant number of moderate Republicans and Democrats in the Senate. The President's other economic advisors, Lawrence Lindsay and Glenn Hubbard in particular, argued that the reliance on triggers would mute the economic stimulus of any tax-cutting. O'Neill presents himself in Suskind's work as the voice of reason, the case of triggers illustrating prudence. However, macroeconomic theory indeed suggests that the greatest economic stimulus is provided by permanent, not temporary, changes in tax cuts; as triggers interfere with the permanence of the tax cuts, they do in fact mute the stimulus because changes in disposable income are discounted in a world in which tax cuts may be repealed (see Romer).

The first round of tax cuts included an immediate rebate, at the insistence of O'Neill, who had hoped also to attach longer term tax-cutting to triggers that would stop cutting taxes if the surplus didn't materialize, in addition to an across-the-rate cut for all taxpayers, and a new tax bracket of 10% for low earners. Given that O'Neill supported a tax rebate, one can assume that he does not quite believe that tax cuts have zero stimulative effect. The question is, how much — which is a difficult empirical matter, because the effect of tax cutting probably depends on the state of public confidence and the state of the economy, the former having a contextual quality to it.

The second round of tax cuts occurred in the run-up to and aftermath of the 2002 midterm elections. Again, O'Neill presents himself as the voice of reason, arguing against accelerating the Bush tax cuts, and against a reduction in the corporate dividend tax. O'Neill claims in Suskind's work that the economy was doing fine in the absence of more stimulus, and yet the fact that employment rebounded only in the first quarter of 2004 suggests caution in blithely accepting that assessment. The public tone about the economy had been relatively gloomy well into 2004, so here the context of the economy may well have

been relevant. Given a lack of job creation and of public confidence, tax cuts increasing disposable income were probably more stimulative than O'Neill credits.

The reduction in the corporate dividends tax had long been a pet project of the Republican right, on the grounds that it amounted to double taxation. The more important argument against the tax is that it distorts the financial structure of firms, as money paid out to bondholders as interest is subsidized by the tax code, whereas cash flows paid to shareholders are taxed as income, tending to bias corporate financial structures towards debt rather than equity financing. The potential risk is that firms become more brittle because dividends can be suspended, whereas interest cannot. In the book *Valuation* by McKinsey and Company, one of the first orders of business in their case studies is optimizing the use of interest tax shields. This convinced a non-believer of the real effects of the tax code on business activity, as *Valuation* is aimed at practitioners, not academics. Thus, in spite of the expense in terms of lost revenue, in an environment in which excessively leveraged companies like Enron were imploding regularly, altering the tax code in order to reduce the incentives to take on debt may well have been an efficiency enhancing policy activity. It is worth observing here that the debt-to-equity ratio has steadily increased in the postwar period for US firms, and the dividend payout ratio has decreased until the change in the tax code, again suggesting that contra O'Neill, reducing the dividend tax was a way of improving both the long term performance of the economy and corporate governance. Too often in Suskind's work, O'Neill commits the same error for which he chastises the Bush team, which is not thoroughly considering the fact that your bureaucratic opponent may sometimes have a valid point.

COMPARATIVE PERSPECTIVE ON BUDGET DEFICITS

When one hears of budget deficits on the order of \$500 billion, there is a natural tendency for the mind to reel. Such numbers are, as they say, hard to wrap your mind around. Both a macroeconomic and comparative perspective are useful here. In a general sense, an annual budget deficit that is larger in percentage terms of GDP than the annual long term growth rate of GDP is unsustainable, as it involves a level of debt, and therefore interest payments on the debt, that grows arbitrarily large relative to the economy. Investors would never rationally fund a scheme whereby new debt is issued to pay interest on old debt,

as eventually the entire world's portfolio would be concentrated in the debt of a debtor whose interest would lie in confiscating the private wealth of the world by printing currency to pay off the debt. The incentives of the borrowing government to solve its fiscal problems through seignorage, the raising of wealth through taxation by inflation, will eventually grow so strong as to frighten away private creditors (See Rogoff and Obstfeld). As the current US deficit is larger than the growth rate of GDP in percentage terms, US fiscal policy is unsustainable.

Having noted that the current path of fiscal policy is unsustainable, we make four observations. One, the current deficit is well below other deficits observed in US history. Currently on the order of 4.5% of GDP, the US budget deficit is well below observed deficits in which a fiscal crisis driven by capital flight was not observed. The United States, for example, ran budget deficits on the order of 6% a year during the 1980s through which, although having some negative consequences, especially relatively high real interest rates, America in fact muddled through. Two, in a comparative sense, the US budget deficit is not grossly out of line with current Western European deficits. France and Germany have repeatedly violated the Growth and Stability Pact's 3% of GDP bound on budget deficits, and neither European capital markets nor especially the euro have precipitously declined, which would be the case if the financial markets were truly frightened by an irresponsible fiscal policy. In point of fact, the French and German budget deficits are on the order of respectively 3.8 and 3.5 percentage points of GDP. Three, most analytical models of developed country capital markets imply that in no case are we anywhere near the breaking point in the sense that the current budget deficits unsustainable level is so high that the problem, in the short run, is likely to be unmanageable. We could run deficits for several more years at this level and likely see few capital market effects. Many of these models suggest the real unsustainable debt level on theoretical grounds is on the order of 300% of GDP; even generously adjusting such numbers downwards, the US could run deficits of the current magnitude for quite some time before the economics profession would predict an imminent crisis. Four, and most importantly, the CBO forecast, subject to the limitations discussed below, in a general sense show the deficit falling compared to GDP growth, implying that a likely outcome is that the deficit is reigned in well before a crisis is reached. Thus, when viewed from a macroeconomic point of view, and the perspective lens of a comparative perspective, the current US fiscal stance is neither unprecedented nor impossible to sustain, over the short to medium term. In this

sense, US fiscal policy under Bush has not been wildly irresponsible. Having established the foundation of our macroeconomic and comparative perspective, we can consider Bush fiscal policy and its relationship to CBO budgetary matters in more detail.

GENERAL OBSERVATIONS ABOUT BUDGET FORECASTING AND FISCAL POLICY

The CBO (2004) observes that in evaluating its budget forecasts, a few points are vital to understand. First, around the turn of business cycles, budget forecasts are likely to be most inaccurate. Thus, the ten year outlook presented in 2000 to the general public showing surpluses as far as the eye could see, was precisely the forecast most likely to give a misleading impression of the fiscal state of affairs. Interestingly, the tone of the CBO 2004 report itself is rather defensive in character, as the CBO is clearly attempting to defend its competence throughout the exercise: there are numerous historical comparisons to the accuracy of both administration and private forecasts. Presumably, the CBO felt some pressure to explain to Congress what happened to the beloved “surplus” that everyone had earmarked for use.

Although the NBER dates the onset of recession as March 2001, in point of fact, growth of GDP had significantly decelerated in the second half of 2000 (NBER 2004). That this was not commented on at the time was probably a reflection of the afterglow of the market mania optimism of the day; note that the NASDAQ, the best indicator of that era’s irrational exuberance, peaked in March of that same year. It is worth noting at this juncture that the Federal Reserve was tightening monetary policy during 2000, if we use the Federal Funds market target interest rate as the measure of the policy stance of the monetary authority. It seems that a fair reading of the economic evidence of the time would suggest that an economic downturn in Bush’s term of office was highly likely.

With respect to the Bush Administration, there was clearly nervousness that the rosy economic picture was unlikely to persist. Before he took office after all, Bush was widely criticized as endangering the health of the economy by speaking of his tax cuts as insurance against recession. We do not need to credit Bush with an excess of prescience in the matter. The key observation is that Bush’s chief economic advisor on the campaign, Lawrence Lindsay, was a well-documented “perma-bear,” believing stocks so overvalued that it was widely

reported that he sold off his portfolio at Dow 4000. This, by the way, is why Wall Street types like business, not economics, degrees.

Independently of the short-run fear, the Republican Party under Reagan shifted from an emphasis on budget deficit restraint to an emphasis on reducing the role of government so as to increase the long-term growth rate of the economy. Instead of tax and spend Democrats, we now have cut taxes and spend Republicans. To some, in effect, budget deficits weren't such a bad thing at all, as lower taxes would drive down government spending and thereby force the composition of output to shift from the public to the private sector. Thus for short-run and long-run fiscal policy reasons, it is again unsurprising that Bush came to office committed to cutting taxes. On the political side, his commitment to tax cuts gave him a key edge among the Republican base, and his commitment to executing such cuts was obviously influenced by the counterexample of his father, whose defeat many attributed to a failed promise on taxes. Putting together the political and economic picture, a Bush tax cut was not unlikely, in fact it was a core campaign promise, nor on its face an unreasonable response to the macroeconomic environment.

The expansion that the NBER dated to April 1991 was, after all, fairly long in the tooth by January 2001, and the impact of the stock market on budgetary matters is here doubly important. First, as the CBO points out (2004), the percentage of compensation tied to the stock market had increased significantly over the years prior to 2001; thus, a fall in the stock market would have significantly larger budgetary impact than in the past. Second, the extraordinary valuations of stocks at the end of the 1990s had significantly distortionary effects on the real economy that have influenced the path of the budget deficit. When stock prices are high, an investment model known to economists as Tobin's Q suggests that investment by firms will be high. In fact, that was the case during the late 1990s. If stocks were driven to irrational valuations, which seems plainly the case, firms would have acquired excess capital during the late 1990s. That implies that post-Bubble investment would be lower; this has been the case throughout the early part of this decade, and is also consonant with the Japanese experience, broadly considered, since the collapse of asset prices at the end of the 1980s.

In passing, it is worth noting that we should probably take heed from the Japanese experience, and recognize that the first decade of the twentieth century was probably predestined to be less happy a story economically as was the end of the last century. The Japanese economy has suffered from the effects of its

asset price bubble for the last 15 years. While the US bubble in stocks was narrower than in the Japanese case, and the U.S capital markets and banking sector better developed and positioned to suffer a big swing in asset prices, nonetheless, there are good theoretical and historical reasons for expecting a serious hangover.

When combining the above three facts about budget forecasts in general, about asset prices and tax revenues, and about the impact of asset prices on the real economy, the picture looks significantly more favorable for President Bush. First, the surpluses of the late 1990s/2000 forecasts were illusory. Second, and more importantly, the macroeconomic environment was such that any attempt to use tax cuts to stimulate GDP on the investment side was unlikely to be very effective, because firms already possessed excess capital. For fiscal policy, then, the choice was between increasing government expenditures and consumption (or weakening the dollar). Thus, large tax cuts for individuals were a not unreasonable approach to preventing a deeper recession.

Again, the Japanese experience is instructive here. Japan experienced both a larger asset price bubble, and a larger deflationary aftermath. On the fiscal policy side, the Japanese concentrated the stimulus on government spending. Deficits as a percentage of GDP reached a high of 8% of GDP (OECD 2004). Many observers believe that this stimulus failed to have as strong an effect as desired. Crudely put, in the Japanese case much of the fiscal policy stimulus was wasted due to the overrepresentation of rural interests in the Japanese apportionment of Parliamentary seats. Building bridges in Hokkaido that few drive across is hardly the optimal use of fiscal policy stimulus, and yet projects of this sort were a significant component of the Japanese fiscal stimulus.

While granting that the distribution of political power in the US in legislative apportionment is more equitable, and that, therefore, the use of government expenditures is likely to be more efficient as a fiscal stimulus in the US, the fact that government expenditures are produced in the US by the interaction of political bargaining and generally non-competitive markets (what is called “crony capitalism”) should give pause to those who blithely assume that, within the US system, using government expenditures necessarily stimulate the economy.

It may well be the case that the overall level of provision of public goods in the American economy is too low. But large spending packages US-style too often become the entering wedges for every member of Congress’ dubious pet projects that are good for some particular constituency, especially well-con-

nected government contractors, but at the expense of much larger numbers of taxpayers. The ever escalating highway bill of 2004 seems ample illustration of this point. Concluding, given a macroeconomic environment unfriendly to stimulating investment, and given the reality of what using government expenditures to stimulate output entails, the use of tax cuts to support consumption seems highly defensible.

There is a second aspect of using tax policy to stimulate the economy that is worth considering at this juncture, which is its distributional aspect. Typically, Republicans favor tax cuts that are across the board, while Democrats favor tax cuts that are limited to the lower end of the income distribution. Because of the progressivity of the income tax code, it is inevitable that on a dollar basis the Republican approach means that the majority of tax cutting benefits flow to the wealthiest Americans. Democrats object to this on positive and normative grounds. On positive grounds, Democrats observe that since the wealthy have on average a higher rate of savings, the stimulus of such tax cuts is less than when tax cuts are focused on lower earning groups. Indeed, the wealthy do save more, but Americans in general spend their tax cuts on stimulating the economy; in fact two thirds of the US economic activity is derived from the average consumer spending.

In addition, there is the brute fact that the middle class Americans pay the vast majority of income taxes. As a result of the Earned Income Tax Credit, the lowest percentage of Americans have low to essentially zero federal income tax liability. The top 30 to 40 percent of the income distribution, that is the professional and skilled working class (and not the wealthiest) pays the lion's share of federal income taxes. Thus, to generate a large fiscal stimulus, significant amounts of tax cutting invariably should fall on these groups and not to the wealthiest.

One alternative way of using tax cuts to generate a large stimulus while giving the dollar benefits of tax cutting to lower income groups would be to reverse the current tax cap on Social Security. That is to say that instead of capping Social Security taxes on income up to approximately \$85,000 dollars, the lower part of the income distribution wouldn't pay any Social Security taxes up to a threshold. For a significant proportion of the population, Social Security taxes make up the bulk of their tax liability, so such tax cuts could in theory provide a substantial stimulus while focusing the benefits on the lower end of the income distribution.

More fundamentally, the more significant and deeply felt objection to lowering marginal tax rates across the board is the sense that the wealthy are wealthy enough, that the current distribution of income is in some sense unfair. The income distribution is more unequal in the United States than in any other advanced industrial countries as measured by the Gini coefficient.

Finally, what the CBO calls technicals are also relevant to any evaluation of fiscal policy. Loosely put, to CBO types, technicals are the relationships between GDP and tax revenue. These relationships (parameters in a macroeconomic model in technical terms) give the predicted effects of changes in GDP on tax revenues and expenditures, and along with other aspects of the budget estimation process, especially changes in entitlement expenditures, lead to the CBO forecast for the future path of fiscal policy, especially in our case here, the budget deficit. It is at this juncture that the work of Wildavsky is so relevant. There are two types of errors any budgetary forecast process are subject to. The CBO employs highly competent professionals. They rightly point with pride to the fact that over the last twenty years their forecast record has been approximately as good as both the Administration forecast and the private Blue Chip forecast (CBO 2004). The problem is that there is enough variance in any forecast of the macroeconomy that all the forecasts have enough variance over even relatively small time intervals that long range forecasting of GDP growth, say out to ten years, has a level of uncertainty that yields increasingly large variances with reality. Moreover, that is compounded by the fact that the relationships of GDP to tax revenue itself change over time in significant fashion, meaning that the second order errors intrinsic to the macroeconomic modeling process with respect to the budget of the federal budget are large, as well as the first order modeling of GDP growth itself. The CBO doesn't do a bad job, it's just that even the best they job they can do makes modeling budget behavior over long time periods fairly inaccurate. Hence Wildavsky's caution about our limited ability to understand the budget process is well taken as claims of future surpluses and deficits as far as the eye can see should be taken with a saltshaker. It bears repeating here the combination of technicals and GDP variation are estimated by the CBO to account for approximately 40% of the difference the optimistic forecast of 2000 and the sad situation of today.

The source of the technical variation does have relevance to Bush's fiscal policy, however, because of the source of the variation, healthcare, and the Bush policy in this field. Healthcare inflation, having fallen through much of the 1990s, due primarily to limited government reimbursement of suppliers, HMO and

other private insurer care restrictions, and possibly the regulatory threat of Clintons proposals and policy orientation, began to accelerate at the end of the decade. The medical industry rebelled at compensation restrictions and politicians responded to their complaints about restrictions. At the same time, Bush comes in for criticism on the nature of his healthcare policy, to the extent that he has not addressed the sources of market inefficiency. Bush's main agenda has been the creation of Medical Savings Accounts, which allow for the mating of a catastrophic insurance plan to a tax advantaged savings account that can be used to cover the difference between the catastrophic coverage and routine medical expenses. Such plans are popular with healthy high earners, but will not begin to seriously dent the 45 million uninsured as of 2005. They may even worsen the uninsured problem over time, as the positive selection into MSA's means other plans face increased adverse selection, i.e. the less healthy grow as a percentage of patients in non-MSA plans, thus raising costs, and ultimately costing some people their insurance. More generally, it is likely that attempts to de-socialize risk in healthcare will exacerbate healthcare inflation, as more and more resources are devoted to the administrative task of risk avoidance on the part of insurers. By ignoring the special issues in healthcare and in effect being driven by the "markets are always better" blinders, Bush will have accomplished very little in the field of healthcare in terms of access or cost. With respect to fiscal policy, since growing costs are one of the key budgetary issues, here Bush's unwillingness to really rethink the financing of healthcare is a significant weakness in his legacy. This is especially obvious with respect to Medicare policy.

Where Bush does come in for serious criticism is his Medicare policy. His Medicare policy was pushed through very rapidly, with clear evidence that the costs of the proposal were obfuscated. Presumably the political calculus was that, having made a promise of a prescription benefit, a presidential election year demanded a program be passed. Passing over the policy criticisms of the program, for instance that it gives away too much to the pharmaceutical industry, the key point is that a new entitlement program was created that all past evidence suggests will become far more expensive than planned. Having pushed the program by reluctant conservatives on a \$400 billion estimate, the real cost estimate was soon revealed to be on a ten year basis closer to \$550 billion. The current estimate as of 2005, is that the ten year estimate is for \$720 billion. Some of this difference is attributable to out and out fraud. When the budget director of the program is told to hold down cost estimates, fraud is com-

mitted in the sense that the appropriating authority is withheld vital information about the consequences of its' actions.

At the same time at a deeper level, the change in cost estimates is very revealing for the budgetary implications of entitlements, and for precisely why an expansion of them at this juncture was such a highly risky idea economically and politically. Entitlements, Wildavsky points out, are unamenable to budgeting. Instead of forecasting available revenue, and altering expenditures, eligibility requirements and the private choices generated by such eligibility provisions generate expenditures, and then revenues are somehow generated to pay for the program. Thus, part of the increase in cost over original estimate wasn't due to fraud in the sense of deception, but the ineluctable uncertainty in the whole entitlement "budgeting" process.

But given the fact that the long term impact of entitlement programs is likely to be a real problem, adding a new one now is highly risky. On the economic side, the whole experience of entitlement programs is that in the health field they prove to be enormously more expensive than originally projected. Creating a new entitlement when the old ones are expensive enough is not prudent, absent structural changes in the delivery of medical care in the US that results in a lowering of the long-term rate of medical care inflation. We have already observed, however, that the president has contemplated no fundamental rethinking of healthcare provision, and that his policies may in fact worsen the rate of healthcare inflation by encouraging healthier individuals to opt out of insurance pools, thereby increasing the allocation of resource to risk management. The only way to dramatically reduce medical inflation would seem to be a radical restructuring of the healthcare industry. The experience of the Clintons suggests this is unlikely to be politically practical in the short to medium term. So the Bush team in effect chose to meet a short run political promise of providing a prescription drug benefit to neutralize the senior issue for the general election, and live up to a campaign promise, at the expense of creating an entitlement program that past experience would suggest is likely to be extremely expensive in the future. In the president's defense, it may also be noted that Democrats usually propose more generous, not less generous benefits. The problem with this argument is twofold. Addressing the defense in reverse order, saying my program is less reckless than my opponents is an abdication of responsibility, if it is the case that your own program is still reckless.

Two, and more fundamentally, the politics of healthcare make it unlikely that significant cost reduction will be achieved in a second Bush term. First, we

reiterate that consumers, providers and insurers have all offered strong resistance to restraints on the industry. This seems unlikely to change in the short to medium term. More fundamentally, any such restructuring would require bipartisan support to overcome such resistance. Revelation that the budget numbers were massaged has surely damaged the prospect of such cooperation. Most importantly, trust between the executive and the legislative branch has been damaged in the field of entitlements. In the future it will be more difficult to present the budgetary impact of proposed entitlement changes without there being doubt about their veracity of forecasted fiscal impact. Knowing the potentially fatal consequences of entitlement changes that go badly, legislators are less likely to take short term political risks for long term fiscal gain. Yet in the future this kind of bipartisan support will likely be vital to maintaining the health of the Social Security and Medicare system. Thus, the likely fiscal impact of the Bush prescription drug benefit is to be a massive increase in expenditures, especially as the Boomer retirement strains the system, without any increase in the efficiency of healthcare delivery, at the expense of the executive/legislative and bipartisan comity necessary for needed reforms.

Here, it would seem, is where the main charge of fiscal policy imprudence can be laid home with effect. Even if one accepts that the tax cuts were in part a reasonable response to a macroeconomic environment, by themselves they will not generate such a fall in revenue so as to make the federal government desperately starved for resources. Adding an entitlement program on top of such tax cuts however, is radically different, for the entitlement will grow large just when we don't want. The fact that the President's opponents would probably make things worse is a fairly marginal defense. Here, the President gets poor marks.

SECURITY AND THE BUDGET

Following the CBO decomposition of the change in fiscal environment, another significant change in budgetary environment is the impact of the attacks of September 11 on the perceived US security environment. Partisan bickering aside, it seems there is plenty of blame to go around. The fact of the matter is that until bin Laden "succeeded," it is unlikely that the path of history would have changed very much. 9/11 was probably more likely to occur under Bush than Gore, because of continuity of policy issues, but even a Gore administration would have had significant personnel changes and a policy review so that a Gore

team probably would not have been much more likely to prevent an attack than the Bush team: loss of continuity in policy is inevitable in democratic politics. Moreover, actually hunting down al Qaeda was not possible before 9/11, because bin Laden-style terrorism lacked a pungent sense of reality. If he had gotten his men a few meters closer to the USS Cole, and broken the ship in half, then the subsequent outrage over several hundred sailors' deaths might have generated the kind of response necessary to forestall 9/11, but in the absence of such success, Pakistan would have never cooperated in such a venture in Afghanistan, and geography dictates the acquiescence of Pakistan in any campaign in Afghanistan.

Similarly, if a Gore team would have been unlikely to prevent 9/11, neither would it have been likely to avoid many of the post-9/11 steps that have been deleterious to the budgetary balance. First, the Gore team presumably would have supported a massive increase on counterterrorism activity: after all, the Democrats criticized President Bush for initially being at best lukewarm to the creation of the Department of Homeland Security. Second, a President Gore would almost certainly have invaded Afghanistan. The Taliban share the Pashtun ethos of hospitality which would have made them extremely unlikely to give up bin Laden. A Gore team would have probably found more allies, but domestic politics alone demanded hunting bin Laden down, and knowing this, our allies would not likely have been willing to shoulder much more of the burden than they have; and in any event, the United States is the only country with the force projection capabilities for accomplishing such a task. In evaluating the fiscal policy of President Bush in the war on terror, then, a changed security environment was bound to yield a change in security related expenditures.

The Iraq war is a different affair. This was in some sense a war of choice, that has had very significant fiscal policy implications. The US clearly could have continued to try and keep Saddam in his box and tried to slowly strangle the regime with sanctions. A paper on fiscal policy is not the place to pass judgment on foreign policy, except to the extent that the impact of foreign policy on the budget is large, and such impact was foreseeable. Here, the Iraq case poses difficult issues. Whether considering the weapons of mass destruction or the state of Iraqi infrastructure, US intelligence on Iraq was highly "inaccurate," and misleading in the key sense that the fundamentally brittle and poor nature of the regime was not recognized.

Even granting the above uncertainties, writing in April 2005, certain observations with respect to fiscal policy seem important. One, Iraq never

downed a single US manned fixed wing aircraft in twelve years of patrol over the No Fly Zones. Given the nature of modern military operations, this total collapse of air defense, which was well evidenced in the 1998 Desert Fox operation, strongly suggested that the key questions of the war would lie in the aftermath of the war. In the desert, armored forces with total air supremacy are simply invincible. This means that given the tactical realities, the majority of the focus of the decision to launch a war should have been oriented towards the aftermath. Iraq simply had no chance of winning a direct conventional confrontation, so the whole key to the venture always lay in post-Saddam Iraq. Here, the evidence is pretty clear that the US simply did not succeed in executing much planning at all. In particular, the US decided to disband the Iraqi army and police after taking Baghdad, indicating that this basic decision on providing security had yet to be made. In a police state, the Army is the core element of public security. Going in with a small force and disbanding the army seems to have been an attempt to fight a war penny wise and pound foolish. The professional military opinion provided by General Shinseki was that approximately 250,000 troops were needed for the venture. That in a narrow military sense was incorrect. Conquering Iraq probably could have been accomplished with even significantly fewer troops than we used.

The Third Infantry's reconnaissance in force through Baghdad is instructive here. The Third I.D. drove through the middle of a city of 5 million people and in the face of intense attacks suffered one casualty, in the process apparently killing over one thousand of its opponents. Any attack the Iraqi forces launched failed to harm US armored forces, and was replied to with devastating effect from the air.

That was the easy part. Where controlling the city was concerned, however, the air and armor present was grossly inadequate, as in effect General Shinseki had suggested. Hence, Baghdad dissolved into an orgy of looting. The stated rationale for dissolving the Iraqi army was that the Iraqi army, by melting away before US forces, in effect dissolved itself. However, upon dissolution of the army there were massive protests, suggesting that they had not in fact completely disintegrated, but instead retired in the face of the tactical inevitability of their defeat. Had we invited, or better yet, ordered them to reappear under American command, our current situation would be far happier.

The relationship to fiscal policy is as follows. The Iraqis were never going to love the US. To their eyes, Americans are Christians who not only have occupied their country, but inflicted massive amounts of harm to them over the

years. We are an occupying Christian power; no Muslim state will like that. If the US were going to make the Iraq venture as cheap as the Pentagon neoconservatives argued, the only way to do that was to retain significant portions of the Iraqi regime in place, until such time as a gradual vetting process of the old army could take place, and the integration of Shia and Kurds into such an army could take place. The Iraqi security forces avoided much of our main blow, and then we disbanded them. The venture in Iraq likely was thus bound to be an expensive one, given that we insisted on starting from Ground Zero.

Additionally, the administration initially made very little effort to involve the United Nations. We essentially treated Iraq as if it were a prize to manage ourselves. Although there was no prospect of getting major troop contributions from other member states in the short run, there was a willingness of the UN to provide political mechanisms for legitimating US presence there. The absence of legitimating mechanisms has clearly made stabilizing Iraq more expensive. On the military side alone, the current pace of operations is costing four billion dollars a month by the Pentagon's estimate. If by better political tactics the present insurgency could have been avoided, half of those expenses might well have been avoided. By itself, \$24 billion annually is not a great expense in a budget deficit of \$450 billion. But to paraphrase Senator Dirksen, twenty billion dollars here, twenty billion dollars there, pretty soon adds up to real money.

Similarly, the US is spending enormous sums of money on contractors to provide security and infrastructure services running the gamut from rebuilding the power grid to driving fuel truck. Having Iraqis rebuild a power plant is probably not the most efficient method. On the other hand, anyone can drive a truck, or guard a gas station, especially a former Iraqi army or police officer under American supervision. Again, the United States has treated Iraq as if it were a prize. Iraq is no prize. If the whole structure of the occupation had been oriented towards involving Iraqis in the process wholeheartedly, not only would the process have been cheaper, but more importantly it would have been more legitimate, and therefore less costly in American lives. The significance of this for fiscal policy is that given that the long run valuation of the public value of expenditures in Iraq is contingent on the outcome, the fact that our reconstruction process to date is not optimal is quite significant in how we judge the venture from a fiscal policy point of view. Up until now, the US approach has resulted in the expenditure of enormous blood and treasure in a fashion that with increasing obviousness was not optimal with respect to achieving the policy aim of stabilizing Iraq. Thus, not only has the Iraqi venture been harmful to the fiscal

balance, but on the aftermath side has been less effective than necessary to achieving our goal of a stable, reasonably democratic state. The venture itself may well have been a good idea; our means of achieving that goal has been less laudable.

One last note of a criticism offered of the fiscal policy impact of Iraq regards borrowing for wars. Wars are generally temporary affairs. Therefore, usually economic logic dictates smoothing the path of expenditures over time, so as to not unnecessarily depress current consumption. The work of Robert Lucas on the United Kingdom makes it very clear that states have always borrowed money to fight wars; economic theory suggests that it is optimal to do so. The United States is not going to be willing to expend the current level of military effort in Iraq indefinitely. Should American casualty levels remain as in on the order of 100 dead and 500 wounded a month, Washington will find a graceful exit.

By way of conclusion, then, besides the questionable rationale for the Iraqi war itself, the conduct of the US in the aftermath of the war is subject to significant criticism on fiscal policy evaluation grounds because Washington's actions have made the venture unnecessarily expensive. Given that the US was fighting one war already in Afghanistan, fighting the Iraq war was risky as it would potentially be a very serious strain on military resources. That fact and the tactical reality of overwhelming US conventional supremacy conjoined to a predictably modest enthusiasm for Christian occupier, all which militated for a reconstruction approach that engaged the Iraqis and the international community far more than has heretofore been the case, means reduced chances of expenditures achieving the country's stated objectives, and Bush must be evaluated in unfavorable light.

NO VETO

A curious feature of the Bush presidency is the failure to veto any significant discretionary spending appropriation. By CBO estimates, the increase in discretionary spending accounts for around 10% of the increase in the budget deficit (CBO 2004). Simply put, the fiscal discipline that characterized the second half of the 1990s has broken down. Three observations seem important here, in this admittedly brief discussion. One, a significant amount of this increase in spending has been in the education field. Since Bush came to office

with serious policy commitment to increasing the quality of education, albeit it with a policy orientation that many don't like, in some sense part of the increase in domestic spending is in fact tied to a campaign promise that on its face seems laudable, since in this case the spending increase is tied to a policy initiative, the No Child Left Behind Act, that is aimed at increasing the efficiency of the education "industry."

However, much of the increase in domestic discretionary spending stems from two sources, one the breakdown of restraint with one party in control of both Houses and a President inevitably primarily engaged in foreign policy. Much of the fiscal restraint of the late 1990s was involuntary, in the sense that the Republicans in Congress and Clinton in the White House held effective vetoes over one another. Because of that, they were in a real sense unable to push through sizable increases in spending because of their different policy preferences. The result was paradoxically collaborative in nature, as both sides, unable to get their own way, could at least prevent the other from getting what they wanted too. This tacit bargain was embodied in the appropriations process in the late 1990s resulting in relatively slow growth in discretionary spending. That bipartisan non-commodious comity has now completely broken down. The Republicans have been very aggressive in using their procedural control, especially in the House, to force their budgetary priorities on the Democrats, apparently intuiting that President Bush would be occupied with foreign affairs.

LONG TERM: THE ENTITLEMENTS

The above evaluation applies to the short run impact of Bush's fiscal policy. By way of review, as a short run macroeconomic stimulus, tax cuts were not an unreasonable response to a changed macroeconomic environment. The combination of slowed economic growth and the fiscal policy measures to fight such slow growth constitute approximately 70% of the change in the CBO outlook. On the order of 20% of the change is attributable to changes in the perceived security environment, with the remainder coming from a breakdown in restraint on discretionary spending. Should we suffer thousands more casualties and end up with a giant Lebanon or Afghanistan, the legacy will loom even larger to the bad, the relevance for fiscal policy being that an enormous amount of resources will have been expended to make the country worse off. It is still too early to judge which will be the case. Passing over these matters, the President

bears significant responsibility for the breakdown in the restraint of growth in discretionary spending, having failed to exercise a veto. Most importantly, and leading to our last subject, he has presided over an increase in entitlement expenditures absent structural reforms of the healthcare system as a whole, and more importantly has put very little effort into seriously considering entitlement reform. Here is the most important fiscal policy legacy, as it is the looming retirement by the Baby Boomers that should be the focus of our concern.

The latest actuary report by the Social Security Administration in one sense paints a rosy picture. The system is projected to remain solvent into the range of 2040. The Medicare program sees trouble sooner, theoretically running into trouble in 2019. There is an important sense in which the actuary's report is misleading, however, which poses important problems with the idea of Social Security being in great shape. The actuary counts as assets notional Treasury bonds credited to the Social Security Administration by the excess of Social Security taxes over expenditures. The difficulty is that these notional Treasury bonds shouldn't really be thought of as assets of the public sector, as they constitute liabilities of future taxpayers. When accounting for the program in the same way a pension fund does, then what we see is that taxes are going to have to rise to pay off these liabilities, given that current discretionary expenditures remain similar as a share of GDP. Moreover, financial stresses from Social Security actually begin much sooner than is generally appreciated. The system will begin to pay out more than it receives in 2017. At that point, Social Security will compete with other government programs for resources. Even before then, stresses will emerge, however, because currently the Social Security surplus, slightly in excess of 100 billion dollars annually, is used to finance other government operations. Thus, as the excess of revenue over expenditure inexorably shrinks as 2017 approaches, other parts of the budget will come under pressure, meaning that either non-Social Security programs must be cut, or taxes raised. This is not to say that the sky is falling, but the actuary's report, when accounting for Social Security's Treasury bonds in this fashion, does imply that eventually even within Social Security either future beneficiaries will have benefits cut and/or future tax payments will rise, and long before then, even before 2017, federal government finances will come under strain. Until 2005, the president put very little political capital behind Social Security reform.. While it is true that there is little evidence that the Democrats will do better on the issue, as Democrats are usually seen as the protector of entitlements, it bears repeating

that just because one party in a dispute proposes making things worse than you would hardly bears absolves a leader of the responsibilities of statecraft.

President Bush has proposed allowing younger beneficiaries the option of diverting 4 per cent of their retirement contributions to Social Security towards individual retirement accounts, on the theory that they will earn higher returns on private assets than on the Treasury Bonds in Social Security. That is not likely to be the optimal course for several reasons. One, whatever its disadvantages, the Social Security System is efficient in terms of its administrative costs. Setting up and administering tens of millions of new accounts is likely to be inordinately expensive compared to the benefits of higher returns. That such changes would be expensive are illustrated by the fact that the administration has proposed borrowing at least \$750 billion dollars, and may ultimately have to borrow \$1.2 trillion to finance the creation of such accounts. Two, it is clear that many of the potential new investors will be relatively unsavvy, so that while average returns may be higher than under the current system, so too will the dispersion of the returns. Much of the evidence of the behavioral finance literature suggests that only 20% of investors do better than the market; the rest do worse. Thus, individual retirement accounts would shift investment risk from the public to private sector. In effect acknowledging this problem, Bush's plan is really very private at all, involving both significant restrictions on asset choice, and more importantly requiring purchase of an annuity at retirement that vitiates much of the ownership benefits that Bush touts as part of his "ownership society." Three, having Social Security contributions invested in US equities does not really solve the problem of finding higher returns, whether or not the accounts are publicly or privately managed. In both cases, the returns on US equities is correlated with US GDP growth and therefore the taxing power of the United States government. If the US economy grows slowly, and projected slow growth in incomes is a driving force behind the forecasts of the Social Security programs' problems, owning U.S. equities doesn't solve the problem of higher returns, because equities are claims to the productive assets of a slowly growing economy. Public management of such accounts doesn't solve this problem, and additionally, once the federal government is a significant owner of equities, over time it is likely that the new pension fund would be the most active of all pension funds, deepening the role of politics in allocation of capital. Politics rather than economic efficiency would become a dominant criterion in the votes for directors of companies. Allen Greenspan's criticisms of the idea of turning Social Security into a massive pension fund like Calpers seem trenchant here.

If private or publicly owned accounts investing in US private debt and equity are not the way to raise the return on Social Security contributions, is there another way to achieve this aim? I argue that the following proposal would in fact significantly increase returns on Social Security, and serve other important policy aims as well. The work of Hernando de Soto has emphasized the importance of poor property rights regimes in less developed countries as a core reason for their continuing poverty. Although the poor of the world occupy land of enormous value, because of poor property rights regimes, they are unable to monetize their main asset. My proposal is as follows. In Svennson's work *Pioneering Portfolio Management*, emphasis is placed on endowments allocating assets towards market segments that are thinly traded, if the goal is to enhance risk adjusted returns. Social Security, as a permanent contract across generations, is, in effect, an endowment. Securitized mortgages in the developed world are an untraded asset, whose returns would be large and orthogonal to US asset returns. If 1% of workers' Social Security contributions (that is 20 percent of contributions) were allocated towards government sponsored entities, especially Fannie Mae and Freddy Mac, we could carry through the following program. The GSE's could initiate a massive securitization program throughout the developing world on behalf of the Social Security system. The GSE's would be the agent, the Social Security System the residual claimant. This would require significant start-up costs, but far less than individual accounts on Bush's proposed scale, which by O'Neill and Greenspan's reckoning had a ten year transition cost of one trillion dollars (Suskind 2003). The GSE's are quite experienced at both securitizing mortgages, and managing the risks associated with such securitization. In turn, on a dollar for dollar basis, they reduce their exposure to the US mortgage market, reducing the inevitable system risk of having all their interest rate risk concentrated in the US. Foreign aid could be increased somewhat to assist in the start-up process, but the main source of start-up costs could easily be paid for by the existing GSE's, and by existing foreign aid programs. The entire economic history of the world is amply provided with examples of the importance of property rights for economic development and democracy. There is unlikely to be any more efficient way to aid the poor of the world than by empowering them to monetize their primary asset. Additionally, such a program serves the core US values of advancing democracy and the rule of law. Stable property right regimes are the bulwark of restraint on governmental power, a restraint that is vital to democratic governance. Moreover, it is the lack of rule of law restraints that makes possible both the

continuing poverty of so much of humanity, and the existence of anarchic zones that are intrinsically threatening to our security.

The proposed program here is a Pareto improving trade. The possibility of such a mutually beneficial bargain between the rich and the poor is possible because the program redresses an externality, the benefits of living under a sound property rights regime are received without having to lobby for the construction of such a regime. Thus, although it is in the interest of the poorer nations of the world to have sound property rights regimes, they are unlikely to spontaneously generate them. The GSE's would as is their practice domestically, sell off the majority of the mortgages to private parties. The portion they retained would over time be expected to experience significant capital gains as risk premiums of the securities over domestic securities fell, while always earning a higher rate of return than domestic treasuries, with a risk profile imperfectly correlated with the risks to US equities and bonds; which is exactly what one seeks when optimally allocating resources for an endowment. Such a plan would not involve administrative diseconomies, nor would the GSE's become political allocators of capital, as they lay off most of the portfolio onto the private market. Such an investment of a moderate proportion of Social Security contributions, on the order of of 2% of workers contributions, would amplify returns for Social Security while serving fundamental US foreign policy interests.

Using such a program , the scale of the Bush privatization campaign could be reduced. Democrats have signaled their unalterable opposition to private accounts, yet in the past moderate Democrats have signaled a willingness to consider private accounts as an add on to Social Security. That is, in the past Democrats have been willing to consider proposals where private accounts are added on to Social Security's current contributions. So my proposal is a compromise. George W. Bush, quickly having buried Social Security reform in his first term, now has the prestige of the administration on the line. With his Social Security proposal polling poorly despite the president's barnstorming of the country, the administration publicly has stated that it will consider any option, so long as private accounts are part of a plan. There is, then, room for compromise, unless Democrats decide that they simply want to humiliate Bush. Bush's proposal could be scaled back to 2% of workers contributions, thus lowering the costs of the borrowing to establish the accounts, 2% of contributions could be allocated towards the securitization of non-traded assets to provide a very significant increase in the rate of return of the program, with one half of the proposed changes being added on to the current program and one half being carved out of

the program, which, coupled with significant acceleration in raising the cap on Social Security taxes on earnings would greatly reduce the system's financial difficulties while avoiding more jarring changes in benefits or taxes in the future. Bill Clinton and John Kerry considered an idea along such lines in the past, so if such a proposal was put before the Congress, there would be a real possibility for some bipartisan support, again, so long as the program was not a pure diversion from Social Security. In turn, Bush could claim some private accounts without the massive costs of his current proposal, and by partially adding the program on to Social Security, the difficulty with the current proposal, which in part is its free lunch quality, would be avoided. To reiterate, there is a problem with Social Security program, a problem that will impact federal government finances sooner than the theoretical insolvency date of 2041, even sooner than the cashflow negative date of 2017. The current Bush proposal does not solve the problem because it is a pure diversion of resources from Social Security, which in effect means the federal government transfers retirement risks to individuals without the resources to make such a transfer either very fair or fiscally responsible. If the Bush reforms consisted of a more limited privatization, coupled with a limited program of purchasing high return assets, and gradual increases in taxes devoted to Social Security, such a program would actually increase resources devoted to Social Security, and then the Bush program would be both far more fair, and far more fiscally and politically sound. Whether or not the Bush administration is willing to back its talk of compromise with actions remains to be seen, but given the increasing nervousness among congressional Republicans about the Social Security proposal, one senses as of April 2005 a Republican desperation that Democrats would be wise to consider, if the Democratic Party really cares about Social Security as a program and not a political club. There is a real problem in Social Security finances, and if the Bush administration addresses the problem, which it has yet to fully do, it will have accomplished a major bit of entitlement reform, although because of its unwillingness to rethink healthcare financing, much more heavy lifting in the entitlement field remains to be done.

CONCLUSION

In a short run sense, George W. Bush can be cleared of a significant fraction of the most serious charges against him in terms of fiscal irresponsi-

bility. Unless the Bushes are to be held to have peculiarly bad economic karma, they cannot be held responsible for the single largest change in the budget picture, the recession. Similarly, cutting taxes to reduce deficits is not intrinsically irrational as a response to recessions; perhaps it is even preferable to the main alternative, increasing government expenditures. Additionally, the extent to which the President was forced to respond to the post 9/11 security environment in a kind of generic fashion absolves him of further charges of recklessness. Approximately one third of the fiscal policy change can be attributed to Bush in the sense that Bush administration policies can be blamed for increasing the deficit above and beyond the hypothetical alternative. Having said that, the President must be viewed more unfavorably on other highly significant items as well. First, his Medicare proposal is likely to prove inordinately expensive at a time when existing entitlement expenses loom larger and larger. Second, he damaged the bipartisan comity necessary to address such issues by railroading the bill through the Congress by using apparently disingenuous expense estimates. Three, if the war in Iraq fails, that failure will be because of poor planning for clearly foreseeable contingencies, and failure will mean an enormous expenditure of blood and treasure to worsen the country's security position. It should be noted here, however, that the final chapter is very much unwritten, and that as of April 2005, this author still sees plenty of time to make corrections that in the future will make the war seem more palatable, if not a venture one would care to repeat on a regular basis. Finally, the President has been understandably distracted by the security situation, and has exercised very little fiscal restraint on the domestic discretionary side.

More seriously, the President failed to address entitlement reform until his second term. Although his adversaries are worse on this point, the President until now has expended no political capital to address a now imminent problem. Campaigning on the issue of private accounts, he has until now repeated the pattern of his predecessors, which is to form a commission and bury the results. At the conclusion of my analysis I offered a proposal to utilize a portion of Social Security contributions in a fashion likely to garner significantly higher returns while serving US foreign policy interests. Whatever the plan, it ought to be our fervent hope as citizens that a reelected President Bush and both parties in Congress address the matter of entitlement reform more seriously in the immediate future, and in a manner that does not exacerbate the current problem with social security. Here one hopes that the administration's signaling of flexibility on how private accounts could be created suggests a deal to be done with moderate

Democrats. That both parties chose to ignore the even more massive problems with Medicare financing is lamentable, but that will have to be a task for the next administration.

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CHAPTER 6. THE BUSH ADMINISTRATION'S CAMPAIGN AGAINST THE INTERNATIONAL CRIMINAL COURT

by Douglas Becker

“[I] made a decision not to join the International Criminal Court in The Hague, which is where our troops could be brought to — brought in front of a judge, an unaccounted judge. I don't think we ought to join that. That was unpopular. And so, what I'm telling you is, is that sometimes in this world you make unpopular decisions because you think they're right.” — George W. Bush, 2nd Presidential Debate, October 8, 2004 (from CPD, 2004)

INTRODUCTION

The quote above came during a town hall meeting styled debate in the 2004 President election. The question, from Nikki Washington, was direct:

Mr. President, my mother and sister traveled abroad this summer, and when they got back they talked to us about how shocked they were at the intensity of aggravation that other countries had with how we handled the Iraq situation. Diplomacy is obviously something that we really have to really work on. What is your plan to repair relations with other countries given the current situation? (CPD, 2004).

Bush's reference to the International Criminal Court (despite its lack of inclusion in the question) suggests the depth to which the Administration opposes the Court. Ms. Washington's question correctly identified one of the

key problems the United States faces in 2004 — the eroding political position of the nation in light of the War in Iraq. Bush's response — cuts to one of the core problems with US opposition to the Court. As Bush said, it is "unpopular." This chapter examines how the Administration has chosen to oppose the ICC, detailing the steps taken in a long political drama that has emerged since the successful negotiation of the Rome Statute (which created the Court) in 1998.

The Bush Administration has considered opposition to the International Criminal Court a significant aspect of its foreign policy. The Court's potential jurisdiction over US service personnel was listed in the 2002 National Security Strategy as one of the strategic threats the US faced. This opposition likely comes from the Administration's position that American power can only be enhanced by the exercise of military authority internationally. Indeed, as James Mann suggests, the Bush Administration's general theme has been the rehabilitation of the use of military power internationally (Mann, 2004). If there is an institution dedicated, in part, to prosecuting members of the military who may be responsible for war crimes and crimes against humanity, this can threaten the unfettered use of the military. The ICC is a global attempt to force a set of rules of engagement on a US military which is not currently bound by these rules. As such, the opposition to the Court is an extension of the Bush Administration's fondness for military solutions to international issues. Reflecting this opposition, on May 6, 2002, the Bush Administration then sent a letter to UN Secretary-General Kofi Annan, announcing its intention not to submit the treaty for ratification and disassociating itself from cooperation with the Court (Bolton, May 6, 2002).

The concern came on the heels of the creation of the International Criminal Court. On July 17, 1998, the UN Diplomatic Conference of Plenipotentiaries adopted the Rome Statute for the International Criminal Court, with 120 nations voting in favor of its Statute. This Statute created what William Schabas has called "arguably the most significant international organization since the United Nations" (Schabas, 2001). Voting against the Statute were seven states, which comprised an unlikely coalition. Joining nations with such questionable human rights records as China, Iraq, and Libya (along with Israel, Qatar, and Yemen), the United States voted against the Rome Statute (Wechsler, 2000), interestingly, this record relies on personal eyewitness accounts, as the United States insisted that the votes be considered non-recorded). The US campaign against the Court proceeds on three levels: the unilateral, the bilateral, and the multilateral. These campaigns — the American Servicepersons Protection Act,

the negotiation of Article 98 agreements, and the threatened veto of UN Resolutions on peacekeeping — demonstrate the level of commitment the US has against the Court.

THE ROME STATUTE AND ITS PURPOSES

The 20th century saw a remarkable increase in the number and scope of war crimes prosecutions. From the failed experiments of the Leipzig and Constantinople tribunals to the success of Nuremberg and Tokyo, the international community began to expect that war crimes prosecutions would increasingly become a part of international relations. The proponents of the Nuremberg and Tokyo tribunals had hoped that their work would culminate in a permanent international Court to address these issues. But with the end of the wartime cooperation and the flaring up of the Cold War, the war crimes regime took a back seat to power politics. All discussion of the Court died in the United Nations' International Law Commission.

Evidence of the desire for a permanent International Criminal Court in the 1940s is significant. The Genocide Convention, for example, makes a provision for an international tribunal in Article VI, stating that “Persons charged with genocide. . . shall be tried by a competent tribunal of the state in the territory where the act was committed, or by such international penal tribunal that may have jurisdiction” (as quoted in Ronayne, 2001). While it allows for territorial jurisdiction, the authors of the Convention, including Raphael Lemkin, the strongest individual proponent of the Convention, hoped that an International Criminal Court with universal jurisdiction would be empowered to hear cases of genocide (Power, 2002).

Hearing cases concerning these crimes is exactly what the International Criminal Court is intended to do. Genocide, along with grave breaches of the Geneva Conventions (war crimes) and crimes against humanity, are the three crimes the ICC is empowered to adjudicate. The fourth, the crime of aggression, has not been defined. Unless the ICC can develop a workable definition of the crime, it cannot hear cases related to this charge. Therefore, the ICC asserts universal jurisdiction over the most heinous international crimes.

During the negotiations for the ICC, the United States presented a number of proposals to limit the scope of its jurisdiction. The initial proposal, presented by Germany, provided for four different scopes of jurisdiction: a territorial juris-

diction, encompassing the territory where a crime was committed; a national jurisdiction, encompassing the nationality of the accused; a harms jurisdiction, encompassing the nationality of those harmed by the alleged crime; and a custodial jurisdiction, encompassing the territory where a suspect was apprehended. The United States countered with a proposal that merely incorporated national jurisdiction. After a long series of negotiations, the Rome Statute reflects the territorial and national jurisdictions (Wechsler, 2000). The US position reflects the principle of extraterritoriality, which fell into disrepute based on its practices in China as a result of the unequal treaties during the 19th

This is one of the stated reasons why the United States opposed the Rome Statute, and only reluctantly signed the Statute hours before the deadline of January 1, 2001. Considering US opposition to the Court, Clinton's decision to sign the Rome Statute is curious, but explainable. First of all, the Statute declared that any state wishing to sign the Treaty without already previously ratifying it had to do so by January 1, 2001. Clinton's signature was the last opportunity to sign without ratifying, which signaled that the United States would cooperate with the Court - without joining. Secondly, Clinton signed the Statute to signal his desire that US involvement in the Court not wane in light of the new Bush Administration's direct opposition to the Court. But this signature would not last long.

Other points of American opposition include the lack of distinct cooperation between the ICC and the United Nations (and specifically the detailing of the definition of the crime of aggression with specific reference to Chapter VII of the UN Charter, giving the Security Council the sole authority to determine breaches of the peace) and the expansive role of the prosecutor's ability to bring a case *proprio motu*, or of his/her own initiative. In fact, this independence of the prosecutor from the direct power of the United Nations is one of the strongest elements of the Rome Statute, according to Geoffrey Robertson. He argues that the United Nations has been too emasculated by national sovereignty to be of any real value in the promotion of human rights (Robertson, 1999).

The United States fundamentally disagrees. Senator Jesse Helms, the head of the US Senate Committee on Foreign Relations when the Rome Statute was negotiated in 1998, declared that any treaty which did not include an unfettered American veto would be "dead on arrival." This is why the United States insists that the ICC should only be empowered to consider cases referred to it by the United Nations Security Council. Only then could the United States shield not only its own nationals, but also the nationals of nations allied with the US. It is

one of the most important reasons why the Bush Administration removed the American signature from the Rome Statute.

US opposition to the International Criminal Court is surely the most significant challenge the Court faces in these early days of its existence (it entered into existence once the 60th nation deposited the articles of ratification, which occurred on July 1, 2002). The challenge to what Joseph Nye calls American "soft power" is just as great (Nye, 2004). American opposition to the ICC is one of the most often cited examples of US unilateralism, and it can potentially drive a wedge in American alliances (particularly in Europe). Since the United States has consistently been the loudest proponent of legal responses to mass atrocity, its opposition to the ICC appears all the more hypocritical and inconsistent with its principles.

AMERICAN OPPOSITION TO THE ICC

As stated earlier, the Bush Administration's opposition to the International Criminal Court is due in part to its desire to rehabilitate the use of military force as a fundamental component of American foreign policy. But this opposition actually runs deeper than merely Bush Administration policy. Gary Bass, while arguing that the liberal democracies are far more likely to support war crimes prosecutions than non-liberal states, concedes that this prosecution only goes so far. Indeed, the democracy will likely prosecute when its citizens have been harmed, and when apprehension of the suspect does not put its citizen/soldiers in danger (Bass, 2000). The American campaign against the ICC's jurisdiction focusing on shielding its own citizens from prosecution is wholly consistent with Bass's vision of democracies protecting their own citizens at all costs. Also, this campaign to protect its own citizens regardless of circumstance emanates quite nicely from any general understanding of sovereignty.

Additionally, as Samantha Power illustrates, enforcement of humanitarian law is typically not a priority historically for the United States. Despite rhetorical support for the enforcement of humanitarian law, American commitment to this program rarely extends beyond words. Indeed, it took decades for the United States to ratify the Genocide Convention, and often Washington ignored evidence of actual genocides taking place (Power, 2002). Indeed, even as the United States proposed the creation of tribunals to confront the atrocities committed in Yugoslavia and Rwanda, this was largely to shift attention away from

the lack of an American response and focus it instead onto the criminality of the local actors (see, for example, Neier, 1998). Rhetorical support for the war crimes regime is far different than actual support.

One of the key reasons for a lack of US support rests also with the influence of key members of the Senate. Unless the Rome Statute had an explicit guarantee that US citizens could never be prosecuted, Senate Foreign Relations Chair Senator Jesse Helms (R-NC) declared the treaty would be “dead on arrival” in his committee. Since Senate consent is required for the ratification of any treaty, Senator Helms’ opposition was significant. Helms was not alone in his opposition, as even key Democrats on the Foreign Relations committee, such as Senators Joseph Biden (D-Del) and Dianne Feinstein (D-Cal) opposed the Rome Statute (Wechsler, 2000). This mirrors the consistent Senate opposition to the Genocide Convention. The opposition only eroded with the combination of a coalition of domestic forces supporting the Convention, consistent criticism of the lack of US approval within the international community, and the firm commitment of Senator William Proxmire (D-Wis) to pass the Convention.

Even when the convention was passed, the US Senate attached reservations to the Treaty, rendering it essentially toothless (Ronayne, 2001). This is because the United States insisted that its nationals could only be tried for genocide if the US previously recognized a conflict as genocidal. Based on the principle of reciprocity, the United States would not be allowed to try any other nation’s citizens without a previous recognition of the conflict as genocide. Therefore, should the United States wish to try Saddam Hussein for genocide in his 1986 attack on the Kurds, it would be unable to do so based on its reservations to the Genocide Convention.

With the Senate unwilling to support the Rome Statute, it was clear the US would not join the Court. But how would this lack of involvement emerge? Would the United States merely choose not to join, or actively campaign against the Court? The United States, in focusing the principle of the attack on its sovereign prerogatives to shield its citizens from prosecution, is couching the debate in traditional legal and political terms. The irony of this campaign is that it suggests mere American non-involvement in the Court, rather than outright opposition. The Bush Administration’s language suggest that the United States simply wants to opt out of the Court, which it could rather easily under existing legal standards. This is because US nationals are unlikely to ever face prosecution from the Court.

The International Criminal Court is based on the principle of complementarity. Therefore the Court's jurisdiction extends only when a nation's court system is unwilling or incapable of trying an individual for one of the ICC's core crimes. This provision is based on the principle of *aut dedere aut judicare* (extradite or prosecute). This principle is found within most of the Conventions that establish universal jurisdiction, most notably the Genocide Convention and the Geneva Conventions, and therefore extends to the International Criminal Court. With the Uniform Code of Military Justice, the US military has the capability to try its soldiers, and therefore can avoid ICC jurisdiction by holding a trial (Morris, 2000).

There is one significant threat within this scenario. If an American were charged with an ICC core crime, the state must not only hold a trial, but that trial must be deemed as fair by the ICC. Under the principle of *ne bis in idem* (which is the global protection against double jeopardy), the Court will only consider its prerogative to hold a trial if the national trial showed no will to punish a clear criminal. This is a protection against the William Calley scenario, where the US citizen convicted of conducting the My Lai Massacre in the Vietnam War only served a single day in prison for his crime (for an excellent account, see Belknap, 2002). Therefore, the ICC does have the potential to hold American citizens more accountable for crimes than it has shown in the past. But fundamentally, if the United States wishes to avoid ICC jurisdiction, it merely needs to become more vigilant in its prosecution of alleged American war criminals.

Therefore, the American campaign to protect its citizens is a full frontal assault on the emerging norm of the rejection of impunity for those who are alleged to have committed war crimes. In seeking exemption from the Court, it challenges the Court's international nature at its foundation. As such, it constitutes the most direct threat the International Criminal Court faces. The ICC's defense against this threat has profound implications for the future success of the institution. But the American campaign also has profound implications for the future of its leadership of the Western democracies, and could potentially erode its soft power. It therefore serves as an important case study both of how an institution can overcome hegemonic opposition, but also on the impact of American unilateralism in foreign policy - a trend that is all the more pronounced in the Bush Administration.

The campaign is being waged on three different fronts. First of all, the US is acting unilaterally, with the enactment of the American Servicepersons Pro-

tection Act (ASPA). Secondly, it is negotiating bilaterally, attempting to convince individual nations to sign agreements to guarantee extradition of US citizens accused of crimes before the ICC to the United States (the so-called Article 98 agreements). And finally, the United States, using multilateral diplomacy, has attempted both to shield all its military personnel serving in United Nations peacekeeping missions from ICC jurisdiction, and to ensure that the ICC does not raise its profile in trying war crimes cases. The former was initiated through the UN Security Council resolution 1422, the latter in the debate over UN Security Council Resolution 1593. This analysis will consider each initiative in kind.

AMERICAN SERVICEPERSONS PROTECTION ACT OF 2001 (ASPA)

The initial American campaign against the International Criminal Court was initiated in the U.S. Congress. On August 2, 2002, President George W. Bush signed the American Servicemembers Protection Act (ASPA) into law. Additionally, the House of Representatives added a rider to the Bob Stump Defense Authorization Act for Fiscal year 2003, expressing the sense of the Congress that “none of the funds appropriated pursuant to authorization of appropriations in this Act should be used for any assistance to, or to cooperate with or to provide any support for, the International Criminal Court” (as quoted in Elsea, 2002). Originally, this act was introduced in the 106th Congress, but was opposed by then President Clinton. Reintroduced in the 107th Congress, it passed convincingly, passing the Senate with a 78-21 vote (Congressional Record, Senate) and the House with a 280-138 margin (House of Representatives, HR 4775), showing overwhelming and bi-partisan support for the act. The entire text of the ASPA is reproduced APSA can be found in Appendix 1.

The Clinton Administration initially opposed the ASPA on the grounds that it would “infringe upon the President’s constitutional authority as Commander-in-Chief and to conduct foreign relations” (Scheffer, 2000). Clinton was particularly concerned with provisions that automatically would cut off military assistance to nations which ratified the Rome Statute and joined the International Criminal Court. While the original text of the bill exempted members of the NATO alliance and other key US allies, it did not allow presidential prerogative to exempt other nations from the termination of American military assistance. Additionally, the original text of the bill did not allow for continued

cooperation with the ad hoc Tribunals, nor did it allow for potential US/ICC cooperation over issues which the President deemed appropriate. Finally, there was no provision in the original text of the ASPA to allow for US involvement in UN peacekeeping missions unless a blanket amnesty was granted Americans at the ICC.

The assumption of Bush to the Presidency in 2001 signaled a change in American policy concerning the International Criminal Court. Clinton signed the Rome Statute on December 31, 2000. In May, 2002, Bush indicated the United States would “unsign” the Statute. This came in the form of a letter to the United Nations Secretary General that the United States had no intention of cooperating with the Court, and had no intention to submit the Rome Statute for ratification. Therefore, as evidenced by the letter, the support for the ASPA can be partially explained by the change in Administrations.

But Congress also amended the Act in significant ways to make it more amenable to White House support. First, the ASPA provided additional exemptions to the White House in other nations’ requests for military assistance. Should the President deem said assistance as fundamental to the national interests, the United States can provide that assistance despite the recipient nation's participation in the ICC. As Kenneth Roth suggests, the revision may well render the ASPA's threats of the termination of military assistance meaningless. He states that “Washington doesn’t hand out military aid that it doesn’t believe is in the national interest” (Opposition, 2002). It does, however, give the President a tool by which to exert pressure on states whose centrality to US national interest is questioned.

Additionally, the ASPA contained language proposed as an amendment by Senator Christopher Dodd (D-CT) which allowed the United States to both continue its cooperation with the current ad hoc tribunals, as well as allowing the US to use the ICC if it deems it in its national interest. The specific amendment states that, “Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosevic, Osama bin Laden, other members of Al Qaeda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity” (Sect 2015, HR 4775 — see Appendix 1). This assumes the President holds the prerogative to render this assistance.

Finally, the text of the ASPA allowed the President to negotiate Article 98 agreements, as well as SOFA or SOMA agreements (the former being the Status of Forces agreements usually attached to military alliances, the latter being a

Status of Mission Agreement, typically negotiated multilaterally through the United Nations as part of a Security Council peacekeeping mandate). Rather than issue a blanket prohibition on the use of American forces in peacekeeping missions without explicit American amnesty, it allows certain flexibility to the President to negotiate jurisdiction over American peacekeepers. This provision enabled the United States to negotiate the continuation of Americans serving the peacekeeping mission in Bosnia, which will be more fully discussed in a later section.

The most sensational of the provisions of the ASPA was the Congressional authorization to the President to “use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court” (Section 2008, HR 4775, see appendix 1). This has been dubbed the “Hague Invasion Act.” While the provision does not mandate the use of military force, the language clearly authorizes the use of the military to free any American detainee of the International Criminal Court. While it is difficult to imagine a scenario that would compel the President to authorize a military strike against the Netherlands, a fellow NATO ally, the reaction to this provision has been unequivocal. Interestingly, while military force is authorized by Section 2008, bribes are prohibited. In an age where Congressional approval for Presidential military action has been far from forthcoming, such a broad-sweeping approval signals the depth of conviction against the International Court running throughout the US legislature.

The American Servicemembers Protection Act gives the President broad powers to conduct a full political assault on the International Criminal Court. Indeed, this act of US unilateralism sets the stage for the two US international campaigns, the bilateral approach in insisting upon Article 98 agreements, and the multi-lateral approach using its veto at the United Nations to challenge ICC jurisdiction. It indicates the depth of US opposition to the ICC.

ARTICLE 98 AGREEMENTS

The bi-lateral approach the United States is utilizing to shield its nationals from ICC jurisdiction shows a combination of legal maneuvering and political pressure. Through the use of the legal language of the Rome Statute, the United States is seeking to conclude "non-cooperation" agreements with each nation in

the world. To date, only the nations most vulnerable to US pressure have concluded these agreements. This indicates that it is American power, not legal reasoning, which compels other nations to support the bi-lateral approach. The key element to this bilateral approach is the liberal use of Article 98 of the Rome Statute.

When negotiating the Rome Statute, the framers wanted the new institution to respect any previous agreements governing war crimes related issues. Therefore, in the text of the Statute, the framers inserted the following language as Article 98:

(a) The Court may not proceed with a request for surrender or assistance which would require the requested State to act inconsistently with its obligations under international law with respect to the State or diplomatic immunity of a person or property of a third State, unless the Court can first obtain the cooperation of that Third State for the waiver of the immunity.

(b) The Court may not proceed with a request for surrender which would require the requested State to act inconsistently with its obligations under international agreements pursuant to which the consent of the sending State is required to surrender a person of that State to the Court, unless the Court can first obtain the cooperation of the sending State for the giving of consent for the surrender (as reproduced in Schabas, 2001).

It is through this legal framework that the United States is seeking to shield its nationals from the International Criminal Court.

Article 98 of the Rome Statute was intended to respect the international legal status of the Status of Forces Agreements (SOFAs) that many states, including the United States, concluded as part of alliance negotiations. The most important of these deals was the NATO SOFA negotiated on June 19, 1951, governing the American deployment. Article VII of the SOFA appears to ensure that the sending state of a military (in this case the US) exercises primary jurisdiction over military personnel who are accused of committing crimes within the receiving state (NATO SOFA, June 19, 1951). But as Robinson Everett explains, this is actually an expression of concurrent jurisdiction. The United States has the authority to try individuals who break military law but not the civilian law of the receiving nation. If a "protected" person breaks civilian law but not military law, he/she is to be tried in a civilian court of the receiving nation. If the act is criminal under both courts, the sending state asserts jurisdiction if the crime was committed against the property or persons of it, or if the crime was committed "under official capacity." In all other cases, the receiving state has jurisdiction (Everett, 2000).

The key elements to the NATO SOFA for Article 98 agreements rest on two points: the description of the “official capacity” provision and those who are covered. The former assumes that the crime was allegedly committed while performing official duties. For instance, when US service personnel flew too close to a ski lift cable in Italy in 1998 and severed it, killing 20 people, it was while flying air maneuvers. The Italians wanted to try the Americans in Italian Court, but under the terms of the SOFA, they were returned to the United States for trial (CNN, March 14, 1998). The pilot was acquitted (Smith, 1999). On the other hand, when US marines were accused of raping a 12-year-old Okinawan girl, Japan insisted on holding a trial in their civilian courts. After initial opposition, the US finally agreed to allow this trial to take place in Japan. Since the crime occurred while the Marines were off duty, it did not constitute an official capacity crime. The three Marines were convicted and sentenced to ten years each (CNN, March 7, 1996).

The latter of the two points concerns whether non-military personnel are covered under the SOFA. The NATO SOFA agreement assumes that members of the “civilian component” were covered under its provisions. But in 1957, the US Supreme Court ruled that this provision was unconstitutional (*Reid v Covert*, *Kinsella v Singleton*, and *McElroy v Guagliardo*), and that persons not in the military cannot be tried in a military court (Everett, 2000). The ruling was based on the principle that the Uniform Code of Military Justice cannot extend to civilians, because it only governs military personnel. Therefore, civilians are not covered under SOFAs.

One important departure from the SOFA agreements in the Article 98 agreements, however, is the extension of the agreement to include non-military personnel. In the proposed agreement template, Clause E (1) states that “for the purposes of this agreement, ‘persons’ are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party.” (CICC, memo, August 23, 2002). This is an important departure not only from the spirit of Article 98, but also from the general legal principles as laid out in the SOFAs, as stated above. They were intended to ensure that American military personnel who were accused of crimes would be court-martialed under the Uniform Code of Military Justice. But they make no provisions for non-military personnel. The inclusion of the employees, contractors or indeed “nationals of one Party” is a clear expansion of the authority of the principle laid out within the SOFAs. The United States' requests are exceeding both the general framework of SOFAs and what its Supreme Court has allowed in the past. Since

US law does not allow for the extension of its military jurisdiction to civilians, and since US civilian jurisdiction does not extend overseas, the International Criminal Court properly would be charged with trying these crimes. The template of the proposed text for Article 98 agreements is included as Appendix 2.

A number of nations have concluded Article 98 agreements with the United States, and this list is growing. There are currently 85 Article 98 agreements, and 12 have been ratified (an additional 11 have been executed by executive order, not requiring ratification). Clearly the pressure the United States has placed on nations throughout the world has worked, and the Court is being weakened. Many of the states who have signed the Article 98 agreements are not parties to the ICC. 57 of the 98 current ICC States parties have not signed, leaving 41 who have signed, less than half of the total number of countries which have signed these agreements with the United States. The most significant block of states parties who have not signed are in Europe. Indeed, the only NATO nation to have signed one is Romania. The weaker states, however, have a strong compelling reason to sign, and the US is exercising this pressure effectively.

The statements by Dr. Joao Camara, in the Ministry of Foreign Affairs of East Timor, show the dilemma such weak nations face under US pressure. He stated that East Timor was “uniquely vulnerable,” and “trying to protect its interests and people in the new world in which it has found itself since May, 2002.” To that end, he noted his country was “barely three months old” when it signed the agreement, that it was “entering into a fragile state of existence” and that it “owes a debt of gratitude to the United States, which took a leading part in assisting East Timor on the road to independence, and in ensuring that the United Nations peacekeeping forces were deployed in an attempt to protect the people of East Timor in 1999” (Camara, September 9, 2002). He then noted that the East Timorese Parliament would have to act on the agreement, suggesting that this issue is still not settled. This demonstrates the vulnerability of the Article 98 signees, and indicates the importance of political pressure to the US campaign to secure these agreements.

Recently, a number of key US allies have announced that they will not conclude Article 98 agreements. Notable among these are the longtime allies Canada and Germany. Canadian Foreign Minister Bill Graham concluded that the previous agreements between the two nations address US concerns about complementarity, and that the previous SOFA suffices. Germany went further and stated its opposition to US attempts to weaken the Court. In light of German statements angering the Bush Administration over its potential war in Iraq, such

opposition shows the willingness of the Germans to oppose US foreign policy in general. Both Canada and Germany are expected to continue their opposition to an Article 98 agreement.

Within Europe, the attempts of the United States to conclude Article 98 agreements have split the continent. The institutions of the EU oppose the campaign but the nations of the EU continue to negotiate with the United States. The Parliamentary Assembly of the Council of Europe passed Resolution 1300 on September 25, 2002, which unequivocally stated its opposition to these agreements. It stated that “[t]he Assembly considers that these ‘exemption agreements’ are not admissible under international law governing treaties” (Resolution 1300, provisional edition). On May 13, 2002, the EU issued an unequivocal statement of opposition to US Article 98 agreements. But by September 30, the European Union drafted a “common foreign policy” that would limit the extradition of Americans contingent on a US commitment to try the individual itself (Meller, October 1, 2002). The United States has not accepted the EU’s position, calling instead for an unequivocal blanket amnesty. Currently, the United States still seeks to sign these agreements with individual EU members, although none so far have completed an agreement. European commitment to the Court appears firm at this point.

Clearly, through the use of these Article 98 agreements, coupled with the threat of aid reductions against states that do not sign them, the United States is waging a passionate campaign against the Court. The United States is seeking to use its power and influence to undermine the jurisdiction of the Court, and to shield its nationals. Many nations, particularly the most vulnerable, have yielded to American pressure. The United States has stated that it will seek Article 98 agreements with every state, and as the ASPA and Nethercutt Amendments indicate, has cut military assistance to states who will sign one of these agreements. This campaign is assured to remain heated.

THE CAMPAIGN AT THE UN

The final approach the United States has used to insulate its nationals from ICC jurisdiction is a combination of multilateral negotiation and political gamesmanship as best illustrated through its use of the veto in UN Security Council Resolution 1422. The United States is seeking a blanket amnesty from ICC jurisdiction for all of its peacekeepers participating in UN missions. To that

end, in May, 2002, the United States sought language that shielded its nationals from ICC prosecution in the peacekeeping mission in East Timor, which was renewed through Resolution 1410 (Meyerstein, 2002). But while Resolution 1410 did not contain language concerning ICC jurisdiction, the United States stiffened its opposition upon the renewal of the peacekeeping mission in Bosnia. This is due to the timing of that renewal — June 30, 2002. States had indicated that they would deposit their articles of ratification of the Rome Statute on July 1, 2002, pushing the total to over 60, thereby creating the institution. Due to the date of the renewal, the United States chose the Bosnia mission to draw the line in the sand to underscore the Court's creation.

Initially, when the renewal of the Bosnian Mission was introduced, the United States vetoed the resolution outright. Then US representative to the UN John Negroponte stated that “[h]aving accepted these risks by exposing people to dangerous and difficult situations in the service of peace and stability, we will not ask them to accept the additional risk of politicized prosecutions before a court whose jurisdiction over our people the government of the United States does not accept” (Meyerstein, 2002). The United States could have elected to remove its forces from the Bosnian mission, a suggestion made by French representatives, but instead chose to exercise its veto power to threaten the entire mission (Meyerstein, 2002). This was an example of American political gamesmanship.

After two extensions, allowing the Security Council 15 days to negotiate with the United States, the Council adopted Resolution 1422 (and subsequently Resolution 1423 to cover both missions in Bosnia). The text of Resolution 1422 is included as Appendix 3. While the United States sought a blanket amnesty in perpetuity for those two missions, it secured a one-year amnesty. It had sought an automatic renewal of amnesty unless removed by Security Council action, rendering it perpetual because the US could veto any resolution removing the amnesty. After the other members of the Council rejected this, the US accepted a one year amnesty with the possibility of renewal on an annual basis. In short, this multi-lateral campaign will continue. The United States reiterated its commitment to the Bosnian mission, as Ambassador Negroponte stated that “it is clear that our veto of the UNMIBH resolution did not reflect rejection of peacekeeping in Bosnia. But it did reflect our frustration at our inability to convince our colleagues on the Security Council to take seriously our concerns about the legal exposure of our peacekeepers under the Rome Statute” (Negroponte,

2002). Therefore, the United States was willing to end a very successful UN peacekeeping mission in Bosnia in order to demonstrate its opposition to the ICC.

The legal question as to Resolution 1422 was whether the UN Security Council acted *ultra vires*, that is, beyond its mandate. While it cited the threat to Chapter VII of the UN Charter (the maintenance of peace) that an American withdrawal from peacekeeping missions would indicate, some argued that the UN had no authority to exempt its nationals from prosecution. CICC convener William Pace, stated that “[t]he Security Council was damaged because it acted beyond its powers” (“UN Security Council,” July 12, 2002). Others, citing the ambiguities of Article 16 of the Rome Statute, argued that the UN had the authority to restore US participation in the peacekeeping functions, but that the move was a fundamental threat to the ICC (Stahn, 2002).

While the resolution threatens the ICC, it is the Rome Statute. This is because the Rome Statute's Article 16 allows the UN Security Council to issue amnesties and remove cases from the ICC docket. The opponents of Resolution 1422 argue that Article 16 only allows the Security Council to remove an existing case from the ICC docket and not issue blanket amnesties. But the Article is ambiguous, and hence was interpreted to mean that blanket amnesties are likely legal. Therefore, Resolution 1422, while politically damaging, is likely legal (although no Court has ruled on its legality, and hence the judgment in this case is my own). The net effect was to draw a political line in the sand, and manipulate the language of the Rome Statute to grant a blanket amnesty to all US service personnel.

In the end, the United States faced unanimous pressure in the Council opposing its veto, but stood firm. The power the US possesses, both with its veto prerogative and the perceived necessity of its participation in peacekeeping missions, proved decisive in the debate over Resolution 1422. But there was a political price to pay for this campaign. The United States has pressured the United Nations Security Council in renewing the blanket amnesty for American peacekeeping forces in both Bosnia and in Liberia. In the former, the United States faced a renewed campaign one year following Resolution 1422. It was able to secure a one-year extension of the amnesty in Resolution 1487, in simple language reiterating 1422. During the open meeting of the Security Council, 72 nations spoke to the issue of the automatic renewal of this amnesty.

The comments were as follows:

Against Automatic Renewal of 1422	62 members
Resolution 1422 Undermines the ICC	67 members
Resolution 1422 violates Article 16 of the Rome Statute	62 members
Resolution 1422 is a violation of the UN Charter	37 members
Resolution 1422 undermines international law	66 members
Resolution 1422 is unnecessary	66 members
There are sufficient safeguards to protect US military	37 members
ICC has highly qualified officials	66 members

And the vote in the Security Council on the renewal was 12-0, with 3 abstentions (France, Germany, and Syria). Thus, while there was quite a strong international sentiment against the renewal, the vote itself was rather uneventful.

In Liberia, the issue came to a head over Resolution 1497. While the United States considered sending peacekeeping forces to that war-torn nation, it used this resolution to strengthen the language and broaden the mandate against the ICC. In this resolution, operative clause 7 goes beyond what previous resolutions had indicated over the ICC. It reads:

Decides that current or former officials or personnel from a contributing State, which is not a party to the Rome Statute for the International Criminal Court, shall be subject to the exclusive jurisdiction of that contributing State for all alleged acts or omissions arising out of or related to the Multinational Force or United Nations Stabilizing Force in Liberia, unless such jurisdiction has been expressly waived by the contributing state.

This is an attempt on the part of the Security Council to redefine the Rome Statute. This is an attempt to institutionalize national jurisdiction as the only guiding jurisdiction under the Court's mandate. Additionally, even though under the provisions of both the Genocide Convention and the Convention Against Torture, member states are required to practice universal jurisdiction, in Liberia, resolution 1497 forbids this practice. The United States has ratified both the Genocide Convention and the Torture Convention, so under US law, Resolution 1497 may very well not be legal.

Resolution 1502 furthered this campaign against the Court. Language was inserted in resolution 1502, which dealt explicitly with humanitarian personnel in Iraq, which recognized the ICC's jurisdiction over these personnel. This language was rather innocuous, merely asserting jurisdiction over international per-

sonnel, and stated a factual claim based on the Rome Statute. The United States threatened a veto of the resolution until the language was removed. In the Bush Administration's eyes, any reference to the Rome Statute indicated a support for the Court. This support was seen as dangerous in light of the United States' attempts to compel other states to withdraw their support for the Court. Therefore, the clause was removed to avoid the American veto.

But recently, the United States has seen its campaign against the ICC lose steam at the United Nations. First, when the issue of renewal of the amnesty once again was raised in June, 2004, the United States inexplicably dropped its demand for a blanket amnesty for Bosnian peacekeepers. This is in part because of Bosnia's negotiation of an Article 98 agreement with the US, but this was signed in May, 2003. But this development was not decisive. The US had demanded the renewal following this agreement in 2003, but did not in 2004. Had the Bosnian Article 98 agreement sufficiently shielded US peacekeepers, the US would not have demanded a renewal of the amnesty in Resolution 1497. Therefore, the most likely reason why the US backed off the demand was the revelations of the abuses at Abu Ghraib prison in Iraq. It would have been politically untenable for the United States to demand a blanket amnesty while the world was witnessing potential war crimes committed by American troops in Iraq.

Then, in the spring of 2005, while debating the UN response to the killings in Darfur, the United States renewed its opposition to the ICC. European supporters of the Court proposed that any war crimes cases emanating from that conflict be tried at the ICC. The United States countered with the proposal that the International Criminal Tribunal for Rwanda (ICTR) be empowered to hear these cases. The real reason for this opposition was fear that the ICC would get favorable press coverage from the trials, and the US opposition to the Court would have a higher profile.

The US proposal was without precedent. The ICTR was originally created to hear only cases in Rwanda, and only during the 1994 Genocide. It is both temporally and geographically limited in its jurisdiction. And while the ICTY's jurisdiction was extended to war crimes in Kosovo in 1999 (which would have been the precedent for extending jurisdiction once a UN international tribunal was created), this was not truly an extension. The ICTY was empowered to hear any case of a crime allegedly committed in the former Yugoslavia. The only connection Darfur has to Rwanda is a shared continent.

Additionally, even the current limited task of the ICTR has overwhelmed the court's relatively meager resources. Cases typically drag on for many months, and the Court has only heard cases for 22 defendants since its creation in 1995. After a contentious debate, in which the US threatened to hold up any UN assistance sent to Darfur, the Bush Administration relented. Resolution 1593 refers all cases from Darfur to the ICC. The text of the Resolution is included as Appendix 4. But it does have an amnesty for American citizens. This amnesty is less noteworthy than the amnesty was in Bosnia, because American military personnel are not expected to be deployed in Darfur. So the net result of the Darfur debate was to show that the US was originally willing to refuse to authorize a peacekeeping force to an area where its own Secretary of State, Colin Powell, has declared (against the prevailing opinion at the UN) that a genocide was occurring. In short, the US was prepared to allow a genocide to continue in order to continue its opposition to the ICC.

Therefore, while the United States has had setbacks in its campaign against the ICC, it continues the opposition. While it backed off the use of the veto in 2004, this was likely because of the unique circumstances of Abu Ghraib and the negative press it created. It continues to use the veto power at the United Nations as both a means to bully the organization into supporting a blanket amnesty for American military personnel, and to remove any mention of the Rome Statute from resolutions. While the US is not predetermined to win each case, the political struggle is likely to continue. And it will continue to exact a toll on America's position of leadership.

CONCLUSION: POSSIBLE SCENARIOS FOR THE ICC IN LIGHT OF US OPPOSITION

There are three distinct scenarios facing the International Criminal Court in light of this opposition. The first is that the direct assault on the Court will cause its support to waver, and that the Court will eventually be consigned to the same dustbin of history where the League of Nations rests. The second, diametrically opposed, will suggest that the United States will reverse course and support the Court, causing it to flourish. The third is that the Court will emerge slowly, and that it will suffer from a lack of American participation and from the power that the United States brings to bear against its supporters. But, in this third scenario, the Court's norms are too powerful to allow the institution to

collapse, and that it will slowly emerge as the significant actor internationally that many of its proponents suggest it should.

In the first scenario, US power will prove too significant for Court proponents to ignore. International institutions have quite the poor track record when the United States does not participate. Mere American ambivalence to the League of Nations caused that organization to fail miserably in the crisis of the 1930s. In the case of the International Criminal Court, the United States explicitly opposed the creation of the institution and is actively seeking to undermine its authority. Over time, in this scenario, the United States will compel nations to sign Article 98 agreements and will erode support for the Court. Should this scenario play out, the Court could continue to operate, but be one of the most emasculated institutions on the international stage. Perhaps then the only way in which an International Criminal Court will re-emerge in the international arena will be with explicit American support and perhaps even under direct American initiative. Such a Court would allow American veto power over its jurisdiction.

This first scenario suggests that American power will be decisive at defeating the campaign to build an International Criminal Court. The key actors in avoiding this scenario are European. As the 15 members of the European Union have all signed and ratified the Rome Statute, and all have stated in different forms their opposition to American maneuvers to shield its citizens from prosecution, they constitute the backbone of support for the Court. The United States is choosing a policy which brings it into direct conflict with Europe. Considering that the SOFAs are part of the backbone of NATO, and this debate directly shapes the future of the SOFAs, the stakes are quite high. European commitment to the Court will be significantly tested, and to date it seems to be holding. For example, European discontent over the ski gondola accident in Italy runs deep and compelled a continental debate over the utility of the continuation of the US military presence. While this debate did not alter the alliance, it portends for a less than certain future of military cooperation. The ICC serving as fuel to fire this debate is certainly not in the US's interests.

In the second scenario, the interests of the international community will compel the United States to change course. Indeed, if the lack of American support rests on partisanship, then a committed Democrat in the White House may well change policy. This is unlikely. As stated earlier, Senator Jesse Helms was not the only member of the Foreign Relations Committee to oppose the Court. Key Democrats such as Senators Biden and Feinstein were no less sup-

portive of the Rome Statute than their Republican counterparts. Partisanship did not determine US opposition to the Court. Unless a changed perception of the Court holds it to be in American interests, this scenario appears unlikely.

A significant change in US thinking about the Court would need to develop, likely out of a specific political event. The events of September 11, 2001, could well have transformed American thinking about the Court, but the impulse seems to have worked counter to the Court's interests. While the United States could have used the Court's prerogatives to prosecute members of the Al Qaeda network, the Bush Administration instead proposed an even more unilateralist approach to prosecutions — military tribunals. Indeed, the United States has rejected calls for international humanitarian monitoring of its prisoner of war camps in Guantanamo Bay, Cuba (and even refuses to call them such, instead calling them detention centers). It is hard at this point to envision a reversal of course in the near future in US policy.

The third scenario is the most likely. The Court's proponents will manage the US campaign and attempt to buttress themselves from American retributions against it. Smaller nations and politically vulnerable nations will consent to sign the Article 98 agreements, but the larger proponents of the Court will remain firm to the institution. The Court will focus its attention on less controversial cases (such as Darfur, where there is international consensus about criminality) and build its support slowly. The key element to the success of this scenario over the first is the normative commitment of the Court's proponents internationally. The institution may develop slowly, with lurches of success followed by retrenchments of failure.

Consistent with this scenario for the International Criminal Court would be an eventual ratification of the Rome Statute. As the Court develops over time, the United States will view its non-participation as damaging to its international political position. Indeed, this is how the United States was compelled to ratify the Genocide Convention (Ronayne, 2001). Domestic coalitions supporting the Genocide Convention emerged after a lengthy opposition, and as Keck and Sikkink suggest, once transnational advocacy networks develop, they are easier to maintain (Keck and Sikkink, 1998). It is not unreasonable to expect that a coalition against American non-involvement in the ICC would emerge much more quickly than the decades required for a similar coalition for the Genocide Convention. But this slow emergence differs from the second scenario in that American non-involvement will not deter the ICC. Instead, ICC successes will compel eventual American involvement. The key to this scenario

could well be how the Court handles the Darfur cases, particularly considering how much publicity these trials will likely generate.

If the International Criminal Court does survive this campaign, the United States' continued opposition to it may erode its leadership in the international community. It will continue to question the American commitment to the ideals of justice and the rule of law — ideals frequently cited in US foreign policy statements. If cases like Abu Ghraib continue to emerge from the War on Terror, the US opposition to the ICC could further erode support for that War. Indeed, because of the issue of complementarity, proponents of the Court see the American opposition to the ICC as a way to ensure the lack of full enforcement of the Uniform Code of Military Justice. When American ideals are questioned, and charges of hypocrisy leveled, American leadership becomes all the more fragile.

THE BUSH ADMINISTRATION'S RECORD ON THE ICC

There is no institution that more reflects American exceptionalism, unilateralism, and general opposition to international organizations more than the International Criminal Court. Even though the Court reflects American values — the rule of law, a legal support for human rights, and punishment for the commission of atrocities — the United States opposes it unequivocally. This is in part because of the Bush Administration's desire to rehabilitate the use of military power as an instrument of US policy. The Court is intended to bind the United States to a set of rules of engagement which could restrict US military power or at least subject it to legal proceedings.

But the opposition to the Court runs deeper than merely Administration policy. Clinton had the opportunity to submit the Court to the Senate for ratification, but chose not to. While he signed the Rome Statute, he did so after the 2000 election and without great fanfare. To be sure, Bush "unsigned" the Statute, indicating that he would not cooperate at all with the Court. This decision may have been of dubious legal standing, but it clearly indicated a political opposition to the Court that signals an unequivocal campaign against it.

The Court will likely build its legitimacy without US support. The Court is focusing on an uncontroversial area to build its initial docket — the conflict in the Democratic Republic of the Congo. The United States would need to draw an even clearer opposition to move against the Court in this conflict. Court pro-

ponents, while reserving the right to bring a case against American personnel, have counseled against any direct move against the United States. In the short run, the campaign against the Court is likely to yield a great deal of protection against US service personnel.

But the opposition to the Court has its consequences. First of all, it undermines the US campaign to punish human rights abuses and atrocities internationally. The US support of a trial of Saddam Hussein is typically undermined by the recognition of US opposition to the Court. Additionally, American calls to end the UN's international tribunals for Yugoslavia and Rwanda by 2007 are likely to fall on deaf ears, because of how these calls are framed against the backdrop of American opposition to the ICC.

Additionally, the opposition to the ICC is cited in almost every discussion of the rift between the United States and Europe on a range of policy issues. Coupled with the US withdrawal from the Kyoto Protocols and the obvious case of the war in Iraq, the US opposition to the ICC is one of the key areas of disagreement driving a wedge between Europe and the US. Clinton's policy of signing the treaty and blaming a recalcitrant Senate for not ratifying the treaty may not have been completely intellectual honest, but it was much more diplomatic than the Bush Administration policy. The US opposition to the Court will remain an irritant in US/European relations.

Therefore, the US campaign against the International Criminal Court is best seen as a drama which continues to play out in the Hague. Bush's campaign is widespread and successful on many fronts. But it has not destroyed the Court or disillusioned the Court's supporters. Its opposition undermines American human rights policies and signals the human rights language Bush employed against Saddam Hussein may well be hypocritical. Like the debate over the Genocide Convention which raged for decades, Washington's leadership on the punishment of atrocities is undermined by this opposition to the Court. It represents in many ways the truly American response to mass atrocity. The US pays a price for its opposition. How well the Court survives this opposition will be a test of strength for its supporters. And how much cost is attached to American opposition is a direct test of this strength. One side will blink. It is highly unlikely to be the Bush Administration. Expect this opposition to continue in a second Bush term.

APPENDIX I: THE AMERICAN SERVICEPERSONS PROTECTION ACT — FULL TEXT

H.R.4775

One Hundred Seventh Congress
of the
United States of America
AT THE SECOND SESSION

Begun and held at the City of Washington on Wednesday, the twenty-third day of January, two thousand and two

An Act — Making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I — SUPPLEMENTAL APPROPRIATIONS

TITLE II — AMERICAN SERVICE-MEMBERS' PROTECTION ACT

SEC. 2001. SHORT TITLE.

This title may be cited as the 'American Servicemembers' Protection Act of 2002.

SEC. 2002. FINDINGS.

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the 'Rome Statute of the International Criminal Court'. The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement

the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been achieved. As a result, he stated: 'We are left with consequences that do not serve the cause of international justice.'

(5) Ambassador Scheffer went on to tell the Congress that: 'Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.'

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, 'I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied'.

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to ‘determine the existence of any ... act of aggression’ would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

SEC. 2003. WAIVER AND TERMINATION OF PROHIBITIONS OF THIS TITLE.

(a) AUTHORITY TO INITIALLY WAIVE SECTIONS 5 AND 7 — The President is authorized to waive the prohibitions and requirements of sections 2005 and 2007 for a single period of 1 year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority —

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that —

(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

- (i) covered United States persons;
- (ii) covered allied persons; and
- (iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.

(b) AUTHORITY TO EXTEND WAIVER OF SECTIONS 5 AND 7 — The President is authorized to waive the prohibitions and requirements of sections 2005 and 2007 for successive periods of 1 year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority —

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court —

(A) remains party to, and has continued to abide by, a binding agreement that —

(i) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(I) covered United States persons;

(II) covered allied persons; and

(III) individuals who were covered United States persons or covered allied persons; and

(ii) ensures that no person described in clause (i) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court; and

(B) has taken no steps to arrest, detain, prosecute, or imprison any person described in clause (i) of subparagraph (A).

(c) AUTHORITY TO WAIVE SECTIONS 4 AND 6 WITH RESPECT TO AN INVESTIGATION OR PROSECUTION OF A NAMED INDIVIDUAL — The President is authorized to waive the prohibitions and requirements of sections 2004 and 2006 to the degree such prohibitions and requirements would prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority —

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that —

(A) a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections 2005 and 2007 is in effect;

(B) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(C) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(D) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

(i) Covered United States persons.

(ii) *Covered allied persons.*

(iii) *Individuals who were covered United States persons or covered allied persons.*

(d) TERMINATION OF WAIVER PURSUANT TO SUBSECTION (c) — Any waiver or waivers exercised pursuant to subsection (c) of the prohibitions and requirements of sections 2004 and 2006 shall terminate at any time that a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections 2005 and 2007 expires and is not extended pursuant to subsection (b).

(e) TERMINATION OF PROHIBITIONS OF THIS TITLE — The prohibitions and requirements of sections 2004, 2005, 2006, and 2007 shall cease to apply, and the authority of section 2008 shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

SEC. 2004. PROHIBITION ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT.

(a) APPLICATION — The provisions of this section —

(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after the date of the enactment of this Act to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and

(2) shall not prohibit —

(A) any action permitted under section 2008; or

(B) communication by the United States of its policy with respect to a matter.

(b) PROHIBITION ON RESPONDING TO REQUESTS FOR COOPERATION — Notwithstanding section 1782 of title 28, United States Code, or any other provision of law, no United States Court, and no agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.

(c) PROHIBITION ON TRANSMITTAL OF LETTERS ROGATORY FROM THE INTERNATIONAL CRIMINAL COURT — Notwithstanding section 1781 of title 28, United States Code, or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International

Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.

(d) PROHIBITION ON EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT — Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government may extradite any person from the United States to the International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.

(e) PROHIBITION ON PROVISION OF SUPPORT TO THE INTERNATIONAL CRIMINAL COURT — Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.

(f) PROHIBITION ON USE OF APPROPRIATED FUNDS TO ASSIST THE INTERNATIONAL CRIMINAL COURT — Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.

(g) RESTRICTION ON ASSISTANCE PURSUANT TO MUTUAL LEGAL ASSISTANCE TREATIES — The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) PROHIBITION ON INVESTIGATIVE ACTIVITIES OF AGENTS — No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. 2005. RESTRICTION ON UNITED STATES PARTICIPATION IN CERTAIN UNITED NATIONS PEACEKEEPING OPERATIONS.

(a) POLICY — Effective beginning on the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, the President should use the voice and vote of the United States in the United Nations Security Council to ensure that each resolution of the Security Council authorizing any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations permanently exempts, at a minimum, members of the Armed Forces of the United States participating in such operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by such personnel in connection with the operation.

(b) RESTRICTION — Members of the Armed Forces of the United States may not participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations, the creation of which is authorized by the United Nations Security Council on or after the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) with respect to such operation.

(c) CERTIFICATION — The certification referred to in subsection (b) is a certification by the President that —

(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation, the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;

(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of

the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or

(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.

SEC. 2006. PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT.

(a) *IN GENERAL* — Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) *INDIRECT TRANSFER* — The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) *CONSTRUCTION* — The provisions of this section shall not be construed to prohibit any action permitted under section 2008.

SEC. 2007. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE TO PARTIES TO THE INTERNATIONAL CRIMINAL COURT.

(a) *PROHIBITION OF MILITARY ASSISTANCE* — Subject to subsections (b) and (c), and effective 1 year after the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, no United States

military assistance may be provided to the government of a country that is a party to the International Criminal Court.

(b) NATIONAL INTEREST WAIVER — The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that it is important to the national interest of the United States to waive such prohibition.

(c) ARTICLE 98 WAIVER — The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal court from proceeding against United States personnel present in such country.

(d) EXEMPTION — The prohibition of subsection (a) shall not apply to the government of —

- (1) a NATO member country;
- (2) a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand); or
- (3) Taiwan.

SEC. 2008. AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY OR ON BEHALF OF THE INTERNATIONAL CRIMINAL COURT.

(a) AUTHORITY — The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) PERSONS AUTHORIZED TO BE FREED — The authority of subsection (a) shall extend to the following persons:

- (1) Covered United States persons.
- (2) Covered allied persons.
- (3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) AUTHORIZATION OF LEGAL ASSISTANCE — When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide —

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) BRIBES AND OTHER INDUCEMENTS NOT AUTHORIZED — This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

SEC. 2009. ALLIANCE COMMAND ARRANGEMENTS.

(a) REPORT ON ALLIANCE COMMAND ARRANGEMENTS — Not later than 6 months after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party —

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) DESCRIPTION OF MEASURES TO ACHIEVE ENHANCED PROTECTION FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES — Not later than 1 year after the date of the enactment of this Act, the

President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) **SUBMISSION IN CLASSIFIED FORM** — The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

SEC. 2010. WITHHOLDINGS.

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-460), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

SEC. 2011. APPLICATION OF SECTIONS 2004 AND 2006 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES.

(a) **IN GENERAL** — Sections 2004 and 2006 shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) **NOTIFICATION TO CONGRESS** —

(1) **IN GENERAL** — Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section 2004 or 2006, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) EXCEPTION — If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

(c) CONSTRUCTION — Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

SEC. 2012. NONDELEGATION.

The authorities vested in the President by sections 2003 and 2011(a) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law. The authority vested in the President by section 2005(c)(3) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated.

SEC. 2013. DEFINITIONS.

As used in this title and in section 706 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES — The term ‘appropriate congressional committees’ means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) CLASSIFIED NATIONAL SECURITY INFORMATION — The term ‘classified national security information’ means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) COVERED ALLIED PERSONS — The term ‘covered allied persons’ means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so

long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) COVERED UNITED STATES PERSONS — The term ‘covered United States persons’ means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

(5) EXTRADITION — The terms ‘extradition’ and ‘extradite’ mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

(6) INTERNATIONAL CRIMINAL COURT — The term ‘International Criminal Court’ means the court established by the Rome Statute.

(7) MAJOR NON-NATO ALLY — The term ‘major non-NATO ally’ means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961.

(8) PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS — The term ‘participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations’ means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

(9) PARTY TO THE INTERNATIONAL CRIMINAL COURT — The term ‘party to the International Criminal Court’ means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS — The term ‘peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations’ means any military operation to maintain or restore international peace and security that —

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) ROME STATUTE — The term ‘Rome Statute’ means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12) SUPPORT — The term ‘support’ means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(13) UNITED STATES MILITARY ASSISTANCE — The term ‘United States military assistance’ means —

(A) assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(B) defense articles or defense services furnished with the financial assistance of the United States Government, including through loans and guarantees, under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

SEC. 2014. REPEAL OF LIMITATION.

The Department of Defense Appropriations Act, 2002 (division A of Public Law 107-117) is amended by striking section 8173.

SEC. 2015. ASSISTANCE TO INTERNATIONAL EFFORTS.

Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosevic, Osama bin Laden, other members of Al Qaeda, leaders of Islamic

Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

TITLE III — OTHER MATTERS

This Act may be cited as the ‘2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States.’

APPENDIX 2: THE US-PROPOSED “ARTICLE 98” AGREEMENT TEMPLATE

- A. Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity, and war crimes,
- B. Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court is intended to complement and not supplant national criminal jurisdiction
- C. Considering that the Government of the United States of America has expressed its intention to investigate and to prosecute where appropriate acts within the jurisdiction of the International Criminal Court alleged to have been committed by its officials, employees, military personnel, or other nationals,
- D. Bearing in mind Article 98 of the Rome Statute,
- E. Hereby agree as follows:
 - 1. For purposed of this agreement, “persons” are current or former Government officials, employees (including contractors) or military personnel or nationals of one Party.
 - 2. Persons of one Party present in the territory of the other shall not, absent the expressed consent of the first Party,
 - (a) be surrendered or transferred by any means to the International Criminal Court for any purpose, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to the International Criminal Court

3. When the United States extradites, surrenders, or otherwise transfers a person of the other Party to a third country, the United States will not agree to the surrender or transfer of that person to the International Criminal Court by the third country, absent the expressed consent of Government X.

4. When the Government of X extradites, surrenders, or otherwise transfers a person of the United States of America to a third country, the Government of X will not agree to the surrender or transfer of that person to the International Criminal Court by a third country, absent the expressed consent of the Government of the United States.

5. This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of the termination.

An additional paragraph is included in agreements intended for countries that are not parties or signatories to the Rome Statute: "Each Party agrees, subject to its international legal obligations, not to knowingly facilitate, consent to, or cooperate with efforts by any third party or country to effect the extradition, surrender, or transfer of a person of the other Party to the International Criminal Court.

This text in its entirety is compliments of the NGO Coalition for the International Criminal Court, memo produced August 23, 2002.

APPENDIX 3: UN SECURITY COUNCIL RESOLUTION 1422

The Security Council,

Taking note of the entry into force on 1 July 2002, of the Statute of the International Criminal Court (ICC), done at Rome 17 July 1998 (the Rome Statute),

Emphasizing the importance to international peace and security of United Nations operations,

Noting that not all States are parties to the Rome Statute,

Noting that States Parties to the Rome Statute have chosen to accept its jurisdiction in accordance with the Statute and in particular the principle of complementarity,

Noting that States not Party to the Rome Statute will continue to fulfill their responsibilities in their national jurisdictions in relation to international crimes

Determining that operations established or authorized by the United Nations Security Council are deployed to maintain or restore international peace and security,

Determining further that it is in the interests of international peace and security to facilitate Member States' ability to contribute to operations established or authorized by the United Nations Security Council,

Acting under Chapter VII of the Charter of the United Nations,

1. *Requests*, consistent with the provisions of Article 16 of the Rome Statute, that the ICC, if a case arises involving current or former officials or personnel from a contributing State not a Party to the Rome Statute over acts or omissions relating to a United Nations established or authorized operation, shall for a twelve-month period starting 1 July 2002 not commence or proceed with investigation or prosecution of any such case, unless the Security Council decides otherwise;

2. *Expresses* the intention to renew the request in paragraph 1 under the same conditions each 1 July for further 12-month periods for as long as may be necessary;

3. *Decides* that Member States shall take no action inconsistent with paragraph 1 and with their international obligations;

4. *Decides* to remain seized of the matter.

APPENDIX 4: UN RESOLUTION 1593 (2005)

Adopted by the Security Council at its 5158th meeting, on 31 March 2005

The Security Council,

Taking note of the report of the International Commission of Inquiry on violations of international humanitarian law and human rights law in Darfur (S/2005/60),

Recalling article 16 of the Rome Statute under which no investigation or prosecution may be commenced or proceeded with by the International Criminal Court for a period of 12 months after a Security Council request to that effect, Also recalling articles 75 and 79 of the Rome Statute and encouraging States to contribute to the ICC Trust Fund for Victims,

Taking note of the existence of agreements referred to in Article 98-2 of the Rome Statute,

Determining that the situation in Sudan continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to refer the situation in Darfur since 1 July 2002 to the Prosecutor of the International Criminal Court;

2. *Decides* that the Government of Sudan and all other parties to the conflict in Darfur, shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution and, while recognizing that States not party to the Rome Statute have no obligation under the Statute, urges all States and concerned regional and other international organizations to cooperate fully;

3. *Invites* the Court and the African Union to discuss practical arrangements that will facilitate the work of the Prosecutor and of the Court, including the possibility of conducting proceedings in the region, which would contribute to regional efforts in the fight against impunity;

4. *Also encourages* the Court, as appropriate and in accordance with the Rome Statute, to support international cooperation with domestic efforts to promote the rule of law, protect human rights and combat impunity in Darfur;

5. *Also emphasizes* the need to promote healing and reconciliation and encourages in this respect the creation of institutions, involving all sectors of

Sudanese society, such as truth and/or reconciliation commissions, in order to complement judicial processes and thereby reinforce the efforts to restore long-lasting peace, with African Union and international support as necessary;

6. *Decides* that nationals, current or former officials or personnel from a contributing State outside Sudan which is not a party to the Rome Statute of the International Criminal Court shall be subject to the exclusive jurisdiction of that contributing State for all alleged acts or omissions arising out of or related to operations in Sudan established or authorized by the Council or the African Union, unless such exclusive jurisdiction has been expressly waived by that contributing State;

7. *Recognizes* that none of the expenses incurred in connection with the referral including expenses related to investigations or prosecutions in connection with that referral, shall be borne by the United Nations and that such costs shall be borne by the parties to the Rome Statute and those States that wish to contribute voluntarily;

8. *Invites* the Prosecutor to address the Council within three months of the date of adoption of this resolution and every six months thereafter on actions taken pursuant to this resolution;

9. *Decides* to remain seized of the matter.

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CHAPTER 7. NATIONALISM AS THE NEW CULTURAL ISSUE

by Jerry F. Hough

Foreign policy and domestic policy are treated as isolated spheres in American political science. Those studying American politics today seldom look at the foreign policy process, and students of voting behavior insist that foreign policy usually is not an important factor in electoral choice. Theorists of international relations give little weight to domestic political calculations.¹ It is surprising. The American President has enormous power in foreign policy, and a rational public obviously should take foreign policy heavily into account in presidential elections. In fact, voter turnout almost always rises when war and peace is an issue.

Even less do historians and political scientists say American Presidents take major foreign policy decisions in order to improve their chances of re-election — unless, of course, they are being pressured by public opinion to have a peaceful policy. Yet, our leading models of democracy insist that politicians strive, first of all, for election and re-election. Joseph Schumpeter, the great economist who had an enormous impact on subsequent political science, insisted in 1942 that a party “cannot be defined in terms of its principles.” A party, he said, is like a department store, and a “department store cannot be defined in terms of its

1. More permanent domestic factors — democracy as a system, ideology, the economic interests of the elite, or the power of an ethnic group such as the Cuban-Americans — can, of course, be given some emphasis, depending on the perspective of the scholar.

brands.”¹ Theory gives no reason for a President to act differently in his positioning and maneuvering on foreign policy than domestic policy.

Foreign policy should actually be a part of domestic policy for several other reasons. First, the Preamble to the Constitution rightly declares that a prime function of government is to “ensure domestic tranquility.” This prominently includes a handling of public anxiety and insecurity, and such anxiety often comes from perceived foreign threats. Second, national identity is not a fact of nature, but must be created — “imagined” is the fashionable word. It must continually be reinforced, redefined, or changed. Since identity is defined in terms of outgroups, foreign policy must be a part of that process, and the President must take this question into account in conducting foreign policy.²

It generally has been a taboo to mention the problems of American identity in discussing American history. Since the creation of a strong and secure identity among European-Americans was such a difficult problem in the United States, Americans instinctively came to feel that silence about the subject might be the best solution. In reality, the opposite is more often the case, and suppression of the subject of identity does not even serve any useful purpose now that European-Americans have been transformed in whites.

The United States has had four great waves of immigration — 1750 to 1776, 1840 to 1860, 1880 to 1914, and 1965 (really 1980) to the present. The first three ended in major political crises and surely contributed to them. Those aware of this fact have always quietly worried that the fourth wave eventually might also create major political problems. The question is whether the stock market crash in 2000, the terrorist attack of September 11, and the potential consequences of the massive foreign trade deficit might combine to be a triggering event.

Historians may decide that President Bush needlessly exploited the anxieties that were created at the turn of the century. They may, instead, decide that he sincerely was trying to deal with a real problem, but that he mishandled it, as the Whigs did anti-Catholic nativism in the 1850s. Or, they may conclude that,

1. Joseph A Schumpeter, *Capitalism, Socialism, and Democracy*, (New York: Harper & Brothers, 1942), p. 283.

2. The classic book is Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, rev. ed. (London: Verso, 1991). Those pushing secession in the 1850s were, of course, trying to change national identity, and so are those in Europe who are trying to create a European identity today. Pat Buchanan charged that the American educated elite have and try to propagate a “global” identity, but, of course, in the process he is fighting for a particular definition of American identity.

despite the extremely ugly features of his security policy, the President handled the anxieties successfully. After all, while everyone recognizes that the internment of Japanese-Americans during World War II was a terrible thing, few think that it lessened Franklin Roosevelt's great achievement in World War II. Some think it was necessary to build unity among the European-Americans. All of us have opinions about history's ultimate judgment about President Bush, but we cannot be certain until we know the future course of events.

But, whatever historians judge, we need to see President Bush in this broader perspective. The media usually attribute President Bush's victory to his use of moral issues of importance to the religious right.¹ This explanation does not seem right. The President emphasized these moral issues more exclusively in 2000 than he did in 2004, and the religious right must have come out in large numbers in 2000. Robert Dole won 39.2 million votes in 1996 and Bush 50.5 million in 2000. The economy was doing well in 2000, and foreign policy was not an issue. Gore's selection of Joseph Lieberman as his running mate was widely attributed to his belief about the crucial importance of moral issues. These issues must, in fact, have been crucial, especially for the religious right.

Yet, only 105.4 million people voted for President in 2000, and the polling firms in 2004 unanimously agreed that Kerry would win if more than 110 to 112 million people came to the polls. Instead 122.3 million people voted for President, and Bush won by 3 million votes. On television talk shows on the Sunday after the election, Karl Rove denied that moral issues were especially important in the President's victory. Instead he pointed to security and foreign policy issues as central. He surely was right.

Of course, neither the Republicans nor the Democrats discussed foreign policy and security calmly in the campaign. It was a highly emotional issue. Everyone recognizes this point, but few generalize from it. In broader terms Bush was employing a new cultural issue, that of nationalism, to supplement and even partially replace his cultural issues of the past. He assumed that the Democrats' identification with "globalization" was politically dangerous to them, but even more he remembered that Ross Perot had defeated his father on this issue in 1992. Bush's use of nationalism, in fact, contributed to a turnout even higher than in 1992.

1. Most followed the *New York Times*, which strongly emphasized this interpretation both in a first page story and in its analysis of the exit polls. Todd S. Purdum, "An Electoral Affirmation of Shared Values," November 4, 2004, p. 1, and Katharine Q. Seelye, "More Values Cited as a Defining Issue of the Election," November 4, 2004, p. 4.

The President's decision to use nationalism was not taken in campaign strategy meetings on the eve of the campaign. Immediately after the terror attack of September 11, 2001, only eight months after his inauguration, he used the slogan "United We Stand" for his response to the attack. This was Perot's campaign slogan in 1992. Bush obviously came to power with a determination to follow a different course than his father.

An understanding of this aspect of Bush's domestic policy is not simply necessary for a comprehensive judgment on the Bush presidency. The transition of the world to affluence in the 21st century inevitably will turn the United States into a middle-level power of some 500 million persons in a world of 10 billion equals. The process is scarcely likely to be politically painless at home, and in retrospect, the crisis that began in 2000 may be seen as the first step in that transition. The political class must give the clearest thought to the political problems to be faced by the country during this process and to the ways they may be handled as safely as possible. The Democrats in particular seem to have only the most fragmentary awareness of what lies ahead.

THE REPUBLICANS AND THE RED-STATE STRATEGY

The Republican Party formerly was a party with its base in the Protestant middle and upper-middle class of the North. As such, it long was more liberal than the Democrats on issues such as black rights, women's rights, censorship, and the like. The same is true of economic issues: the Sherman of the Sherman Anti-Trust Act was a Republican, and the Republicans introduced an income tax whose scales were progressive. Even as the Democrats began moving to the left on cultural issues under Franklin Roosevelt and especially Harry Truman,¹ the Republicans still largely remained a "country club party" on core cultural issues. Even Richard Nixon came from a Quaker background and had a quietly hostile relationship with the religious right. Indeed, it was not a quiet hostility among many conservatives.²

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1. It is not only fundamentalist Protestants who have views on cultural issues. The Catholic Church was long an institutional base of the Democratic Party, and it kept Democratic cultural policy conservative on many issues. Massachusetts and Connecticut still prohibited the sale of contraceptives well into the postwar period, and the Connecticut law was not overturned until 1965 when the Supreme Court declared a right of privacy in the *Griswold v. Connecticut*.
 2. A conservative political consultant gives an excellent sense of the feelings of conservatives toward Nixon at this time in his recent book on Reagan's 1976 campaign. Craig Shirley, *Reagan's Revolution: The Untold Story of the Campaign That Started It All* (Nashville, Tenn.: Nelson Current, 2005).

Two factors transformed the Republican Party.¹ One was the change of the South, Midwest, and Trans-Mississippi West into competitive political regions. In the two-party accommodation of the 1870s and 1880s, the Republicans ceased competing in the South and the Democrats seldom competed in most of the Midwest, the Prairie, and the Mountain states when it had a real chance to win.² As a result, the religious right, which was strong in all these regions, was marginalized, at least at the national level.³

The situation changed radically after World War II.⁴ Strom Thurmond's 39 Electoral College votes in 1948 and Dwight Eisenhower's 67 in the South in 1952 signaled the end of the Solid South. The 1948 and 1960 elections demonstrated the competitive nature of the Midwest. Harry Truman won in 1948 largely on the basis of his victory in states west of Ohio, but Richard Nixon swept the states west of Illinois in 1960. With both the South and the trans-Mississippi West becoming competitive, a policy attractive to the religious right in both areas was feasible. When the Supreme Court asserted that women had a constitutional right to have abortions in *Roe v. Wade*, this aroused members of the religious right even more than the earlier issue of school prayers. They became quite easy to mobilize.

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1. For broad histories of the change, see Jerome L. Himmelstein, *To the Right: The Transformation of American Conservatism* (Berkeley: University of California Press, 1990), and Nicol C. Rae, *The Decline and Fall of the Liberal Republicans: From 1962 to the Present* (New York: Oxford University Press, 1989).
 2. The nomination of William Jennings Bryan in 1896 is usually taken far too seriously. The Democratic Party had no chance in that election after the Panic of 1893 that The Wizard of Oz rightly immortalized as a tornado in the Midwest. Bryan was only 36 years old, had two terms experience in Congress (and had not even bothered to run for re-election in 1894), and had the cultural values he showed as a lawyer in the Stokes "monkey trial" at the end of his life. He had no chance in more urbanized states and even lost the Border States. The 1894 Congressional election had wiped out virtually all Democratic representation west of the Mississippi. Bryan's job was to win back some Democratic seats west of the Mississippi, and that he did, including in Dorothy's Kansas. For a more general argument against the usual emphasis on a realignment in 1896, see David Mayhew, *Electoral Realignments: A Critique of an American Genre* (New Haven: Yale University Press, 2002).
 3. The Republicans did, of course, support Prohibition as a cultural issue for the Protestant religious right at the national level, and the Southern Democrats did so on the local level in the South.
 4. Detailed documentation on the change in party strategy of the Republicans and Democrats discussed in this section and the next is found in Jerry F. Hough, *Changing Party Coalitions: The Mystery of the Red State-Blue State Alignment*, forthcoming from Algora Publishing, November 2005.

The second factor that transformed the Republican Party was structural. The supporters of Barry Goldwater in 1964 had learned how to take over the caucus system, and the McGovern reforms of the Democratic Party nominating rules in 1971, largely adopted by the Republicans, gave activists an even greater advantage. Professionals emphasized primaries as a way of undercutting activists, but the low levels of turnout in primaries gave great power to relatively large groups of activists such as the religious right. It had the institutional base to take advantage of the primaries, and it naturally favored the “red state” alliance of the Southern, Prairie, Mountain states that would unite its strength.

A peculiarity of the Electoral College provided an additional argument for the red-state strategy. Because the Constitution gave two electors to each state for its Senators, it created a major bias in favor of the “small” (really least populous) states in modern times. In 1970, the nine most populous states had 105 million people, 6 million more than the 42 other states, counting the District of Columbia. Yet, despite having 51.6% of the country’s population in 1980, the 9 most populous states were granted only 245 Electoral College votes to 293 for the 42 least populous. The 9 most populous states were 18.0% rural in 1970 compared with 35.8% rural for the 42 least populous.

In 2000, George Bush was to win 21 of the 32 least populous states of 1970, and he increased this number to 22 in 2004. The extra 18 Electoral College votes he received in 2000 by defeating Gore 30 states to 21 gave him his victory. In 1970, Bush’s 21 states were 40.6% rural. They contained only 17% of the country’s population, but 22% of the Electoral College votes. It was a useful bloc of votes to have, and a candidate who added the other Confederate states, Indiana, Missouri, and Ohio would be only 9 votes short of a majority. The 10 votes of upper New England and the 17 votes of New Jersey were usually safely Republican.

The great change in party alignment began in 1975 and 1976. Barry Goldwater’s smashing defeat in 1964 seemed to suggest that his strategy was flawed, and Richard Nixon tried to reassemble the coalition with which Eisenhower had won. His “Southern Strategy” was still aimed primarily at the same Southern middle class that the Republicans had courted in the past and that Eisenhower won. When the moderately conservative Gerald Ford became President in 1974, he seemed to reaffirm the strategy by naming Nelson Rockefeller of New York as his Vice-President.

Rockefeller was anathema to the Republican right wing, and Ford forced him to withdraw from consideration for renomination in 1975. This angered the Eastern liberals, but his replacement in 1976 by a moderate Easterner would have

maintained the alliance —and quite likely achieved Ford’s re-election. The obvious choice was the 50-year old Senator Richard Schweiker of Pennsylvania, whom Ronald Reagan was actually to announce as his prospective running mate on July 26 and made his first Secretary of Health and Human Services in 1981. Elliott Richardson of Massachusetts was another possibility, but Ford reported in his memoirs that he thought the conservatives would not accept him.¹

Another highly attractive political choice for Ford’s Vice-President would have been John Connally, the Democratic governor of Texas who had become a Republican. Connally was nationally known for being in the car when John Kennedy was assassinated, and he himself had also been hit by Lee Harvey Oswald’s bullet. Nixon claimed he wanted to appoint Connally as Vice-President when Agnew resigned and then as his successor in 1976, but thought it would be politically difficult. Another possibility was Senator Howard Baker of Tennessee. Ford claims the greatest admiration for Connally and says Baker was almost chosen, but says that he thought Carter would be invincible in the South.²

Carter won the South much more narrowly than is remembered. He received all of the Electoral College votes of the 16 former Confederate and border states other than Virginia’s, but less than 53% of the popular vote in 8 of them. If Connally’s nomination had produced a switch of 65,000 votes out of over 4 million in Texas alone, this alone would have brought Ford within a few Electoral College votes of the total needed.

Connally actually corresponded to the classic Republican mold: moderately conservative on economic issues and centrist or slightly to the left of center on cultural issues. Donald Rumsfeld had been Ford’s chief of staff and a chief political adviser, and Richard Cheney was Rumsfeld’s chief aide. A more liberal Ford political adviser wrote in 1980 that Cheney “appeared to the right of Ford, Rumsfeld or, for that matter, Genghis Khan.” In the judgment of this political

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1. For the anger of the eastern Republicans and some discussion of Richardson, see Robert T. Hartmann, *Palace Politics: An Inside Account of the Ford Years* (New York: McGraw-Hill, 1980), pp. 371-372.
 2. Richard Mason, *Richard Nixon and the Quest for a New Majority* (Chapel Hill: University of North Carolina Press, 2004), pp. 162 and 208. James Cannon, *Time and Chance: Gerald Ford’s Appointment with History* (New York: HarperCollins, 1994), pp. 210-211. Gerald R. Ford, *A Time to Heal: The Autobiography of Gerald R. Ford* (New York: Harper and Row, 1979), pp. 402-404.

enemy, Rumsfeld was maneuvering to gain the Republican nomination in the future.¹

For reasons that still are not totally clear, Robert Dole of Kansas was named Ford's running mate. The four classic Prairie states of Kansas, Nebraska, North Dakota, and South Dakota had voted for the Republican presidential candidate against Roosevelt in 1940 and Republican in every election afterwards except for 1964. Ford was from a basically rural and small town district in Michigan, and Dole seemed a redundant choice for him. In retrospect, Cheney from Wyoming and Dole from the Prairies were looking to the red-state alliance with the South based on a conservative cultural policy that was to be achieved in the next election. But Reagan in a private meeting with Ford had also picked Dole from a list of six possibilities.²

Carter had run a moderate campaign in 1976. After his election, his pollster, Pat Caddell, had told him that a key group was the middle class white-collar voter.³ His economic and cultural policies once in office were arguably more conservative than Nixon's. Certainly his domestic spending rose much less than Nixon's if adjusted for inflation.⁴ The leading feminist organization, the National Organization for Women (NOW) was so angry at Carter for his position on the Equal Rights Amendment and abortion that it refused to endorse him for re-election in 1980 against Reagan despite thinking Reagan had a "medieval" attitude toward women.⁵

It is, however, difficult to judge Carter's basic political strategy. His economic advisers misjudged the economy at the beginning, and inflation became stronger. The overthrow of the Shah of Iran led to another sharp increase in oil prices and then to the seizure of American diplomats as hostages in November 1979. The Soviet invasion of Afghanistan permitted Carter's opponents to paint the military threat in the darkest of terms. He essentially had no chance to be re-elected in 1980 almost regardless of whom the Republicans nominated.

1. Hartmann, *Palace Politics*, pp. 282-283.

2. Ford, *A Time to Heal*, p. 400.

3. Caddell Memorandum of December 10, 1976. Discussed in Everett Carl Ladd, Jr., with Charles P. Hadley, *Transformation of the American Party System: Political Coalitions from the New Deal to the 1970s*, 2nd ed. (New York: W. W. Norton 1978), pp. 299-301.

4. Controlled for inflation, domestic spending rose 5.6% a year under Nixon and less than 1% in the first years of the Clinton Administration. Steven Rattner, "George Shultz Returns," *The New York Times Magazine*, October 5, 1980, p. 22.

5. See Leslie Bennetts, "NOW Rejects All 3 for President, Condemns Reagan as 'Medieval,'" *The New York Times*, October 6, 1980, p. 20.

Ronald Reagan was, of course, a very skilled candidate. He stirred the emotions of the religious right as he did those of many others. He actually had been a supporter of Franklin Roosevelt, the head of the trade union of Hollywood actors, and then the divorced governor of California. Not surprisingly, he was relatively liberal on the many of the traditional domestic cultural issues of that period. For example, as governor of California, he supported women's rights, including the ratification of the Equal Rights Amendment.

Before the rise of the abortion and other cultural issues of the early 1970s, the unifying cultural issue of the conservatives was anti-Communism. In the first decade after World War II, it had served as a codeword for Midwestern German-American dissatisfaction with policy toward Germany, but Marx's treatment of religion as "an opium of the people" made the phrase "Godless Communism" a perfect symbol for the secularism of the modern day. Reagan had always strongly emphasized an anti-Communist theme and was very popular with the conservatives for this reason.

In addition, as Reagan ran for the Republican nomination in 1980, he changed his basic orientation on the newer domestic cultural issues. He began to oppose the ratification of the Equal Rights Amendment, and he supported a constitutional amendment to outlaw abortion. He also took a strong position on issues such as school prayer and gun control. Especially in the early days of the campaign, he used language about church-state relations that the religious right wanted.

Reagan's election in 1980 seemed much more difficult at the time than it does in retrospect. In June, the moderate Republican John Anderson had 23% support as an independent candidate, and as late as the eve of the presidential debates in mid-September, the Times/CBS Poll found that John Anderson had 14% of the vote. Carter at the latter time still was leading Reagan by 38% to 35%.¹ After the debates, however, Anderson's percentages began to erode in a major way, especially in the Northern suburbs, and Reagan's support grew.²

One explanation for Reagan's movement to first place in the polls was that he significantly moderated his public posture on a number of issues. He had selected the moderate George H. Bush as his vice presidential candidate. *The New York Times*, which supported Jimmy Carter, still repeatedly carried articles that

1. Adam Clymer, "Reagan Viewed in Poll as Leader; Carter Cited on Concern for People," *The New York Times*, September 17, 1980, p. 1.
2. Hedrick Smith, "Polls Show Shifts Aiding Reagan," *The New York Times*, October 1, 1980, p. 1.

were relatively reassuring on Reagan's attempts to calm moderates about the judges he would appoint, his views on church-state relations, his economic policy, and so forth.

Then as Reagan looked forward to his re-election campaign in 1984, he sought to reassure the 6.6% of the voters in 1980 who had given their votes to the independent candidate, John Anderson. His only Supreme Court appointee in his first term was the moderate conservative, Sandra Day O'Connor, who was the first woman appointed to the Court. The President's foreign policy was also much more moderate than his words had suggested. When terrorists blew up the Marine barracks in Beirut in 1983, Reagan quickly pulled American troops out of Lebanon. When Brezhnev died in November 1982, the President within six months brought Ambassador Jack Matlock into a key White House post with instructions to try to negotiate with the new Soviet leaders. Indeed, his diary indicated that he had had that goal even earlier.¹

Reagan himself was reelected in a 58.8% to 40.6% landslide in 1984, but a large part of the traditional suburban base — the so-called Country Club Republicans — were still highly disturbed by the new Republican strategy. As cultural policy became more deeply engrained and as the number of liberal Republican politicians sharply declined, many Republicans in the suburbs, especially women, seemed very disturbed. For the first time, a substantial gender gap developed in which Democratic support among women was higher than among men.

The primary system that gave conservative Republican activists the power to nominate Ronald Reagan also gave them the power to nominate highly conservative members of Congress and state party officials. In particular, as politicians began drawing district borders "creatively" to safeguard incumbents, and the November election became less important and the main danger to politicians came in the primary. This polarized the two parties in the House and made both parties more responsive to their core activists. The politicians who emerged from this system naturally also promoted the nomination of candidates like themselves to higher tickets.

1. Jack F. Matlock, *Reagan and Gorbachev: How the Civil War Ended* (New York: Random House, 2004).

THE POSSIBLE DEMOCRATIC RESPONSES

Carter's defeat meant that a Northerner had to be chosen in 1984, but once Walter Mondale suffered his inevitable defeat to a popular Reagan, the Democrats had fundamental choices to make in the 1980s. One possibility was that Carter was overwhelmed by the overthrow of the Shah of Iran and the subsequent second oil crisis. If so, his policy combination still might be optimal for a better time. Economic conditions would not be perfect in 1988 after eight years of Republican rule, and no Republican candidate, certainly neither George H. Bush nor Robert Dole, would be personally as attractive as Reagan.

Jimmy Carter's narrow victory in 1976 and his major defeat in 1980 discredited his strategy for many Democrats. Nevertheless, in the 1980s a number of moderate and conservative Democrats from the red states advocated a continuation of the Carter strategy, and they formed the Democratic Leadership Council (DLC) in 1985 to promote it. The DLC took for granted a moderate economic policy and saw the trade unions as a political enemy. Nevertheless, it directed its greatest fire on what it called the liberal "interest groups" — the feminists, environmentalists, the leaders of the black and gay civil rights movements, and teachers of the National Education Association. The DLC deliberately distanced itself from the black activist, Jesse Jackson, and he in turn charged that its initials meant "Democrats for the Leisure Class."¹

The DLC usually called for the nomination of a Southerner as a way of attempting to hold the South as Johnson and Carter had done in 1964 and 1976. This was sometimes described as a Southern strategy, but the label was misleading. The Southern states only had 166 Electoral College, over 100 short of what was needed for victory. Reagan had swept all the blue states as well as the red ones, and his 7.4 million vote margin in the South in 1984 was virtually identical to his 7.5 million vote margin in a combination of the Pacific Coast states and the Northern states from the Mississippi River through New England.² Since this Northern bloc had 294 Electoral College votes, the switch of some 4 million voters in the blue states would produce almost double the number of Electoral College votes as a similar change in the South.

1. Jack W. Germond and Jules Witcover, *Mad as Hell: Revolt at the Ballot Box, 1992* (New York: Warner Book, 1993), p. 80. Bill Clinton remembers Jackson's characterization of the abbreviation as "Democratic Leisure Class." Bill Clinton, *My Life* (New York: Alfred A. Knopf, 2004), p. 365.

A Democratic strategy in the North might be attractive or not attractive in the South, but the leaders of the Democratic Leadership Council predominantly were conservative and moderate Southerners. Their combination of a conservative economic and conservative cultural policy, if pushed very far, did not really seem viable in the North, especially in the Democratic primaries. Some kind of choice had to be made.

In starkest terms, two Northern strategies seemed possible for the Democrats, each of which targeted a different group of voters with a different policy position. “There are now,” the sociologist Seymour Martin Lipset wrote in the 1981, “two Lefts — the materialist and the post-material — which are rooted in different classes.”¹ The materialist left was interested in economic social welfare and was based on lower and middle income voters; the post-material left emphasized cultural liberalism and was based on the better educated and more affluent.

The New Deal and Great Society coalition was the classic American alliance of the materialist left, and one possibility in the 1980s was to try to resurrect it. Those advocating this strategy believed Reagan won the blue states because “Reagan Democrats” defected. “Reagan Democrats” in their view were working class voters who were alienated by the cultural liberalism of the Vietnam radicals and by Carter’s abandonment of a New Deal economic policy at a time of wage stagflation.

The proponents of a New Deal strategy thought that a “middle class tax cut” — perhaps a reduction in Social Security taxes — would be attractive to the Reagan Democrats. So too would be expenditures on social programs (e.g., health care) that did not seem focused on minorities. Indeed, since the red states were so poor, this seemed a natural policy to keep them competitive. The

2. The “Pacific states” in this calculation include California, Hawaii, Nevada, Oregon, and Washington. The “South” includes the border states of Kentucky, Missouri, and Oklahoma, as well as the Confederacy, while the three border states of Delaware, Maryland, and West Virginia are included in the “Northern states east of the Mississippi.” Iowa and Minnesota are not included in the latter group, but were likely to vote in the same way.

1. Seymour Martin Lipset, “Party Coalitions and the 1980 Election,” in Seymour Martin Lipset, ed., *Party Coalitions in the 1980s* (San Francisco: Institute for Contemporary Studies, 1981), p. 24. Lipset based his analysis of post-material or post-industrial society and values on Daniel Bell, *The Coming of Post-Industrial Society* (New York: Basic Books, 1973) and Ronald Inglehart, *The Silent Revolution: Changing Values and Political Styles Among Western Publics* (Princeton: Princeton University Press, 1977).

Roosevelt and Truman Administrations had been moderately liberal in their cultural policy, and the proponents of this policy thought that the Reagan Democrats and Southerners would accept moderate liberalism in cultural policy, especially as the race issue was beginning to lose much of its central salience.¹

Indeed, even the gender gap could be interpreted in a different manner than was to become traditional. One could “see” the gap as one in which women were naturally moving to the Democratic Party because of the cultural policy of the Republican Party and could be successfully attracted with a cultural policy attractive to women. Or, one could see men moving to the Republican Party because of the cultural and economic policy of the Democratic Party. This implied the need of the Democrats to modify their cultural policy to attract men back. In fact, as a later study demonstrated, the party identification of women was not becoming more Democratic, but was basically stable. Instead, the party identification of men was becoming more Republican.²

Those promoting the coalition based on the “non-materialist left” were to win, and the winners naturally argued that this proved that the New Deal strategy was no longer viable. This judgment should not be taken for granted. The New Deal strategy had worked well for the Democrats for 40 years, and the McGovern campaign that focused heavily on cultural issues had failed badly. Carter barely won in 1976 and probably would have lost if Ford had chosen a different vice-presidential candidate. Even counting Carter, the Democrats were to win only 3 of 9 presidential elections from 1972 through 2004, and they did not win a majority of the popular vote in any of their three victories. A New Deal policy based on issues such as health care that benefited white and black alike might have been quite popular.

Whether or not a New Deal strategy could have won, the second Northern strategy was based on the assumption that Democrats had lost to Reagan in the industrial states because the “class warfare” appeals of the Great Society had led to the defection of moderate Northerners. Yet, these voters were on “the non-

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1. A classic statement of the need to maintain the New Deal combination both on economic and cultural issues, had been published in 1972 in Richard M. Scammon and Benjamin J. Wattenberg, *The Real Majority* (New York: Coward-McCann, 1970). They often reiterated this position in coming years and reaffirmed it forcefully in the introduction to a new edition of *The Real Majority* issued by Primus Publishers of New York in 1992.
 2. Nancy Burns, Kay Lehman Schlozman, and Sidney Verba, *The Private Roots of Public Action: Gender, Equality, and Political Participation* (Cambridge: Harvard University Press, 2001), p. III.

materialist left” and might be attracted if the Democrats took advantage of the new Republican alliance with the religious right and embraced a more liberal cultural policy than Carter had followed.

Nevertheless, the usual public argument in favor of courting the non-materialist left was deeply contradictory. This was especially the case when, as usual, it was expressed in sweeping terms about economic issues becoming relatively unimportant in the modern world. One article explicitly answered a famous line of Democratic strategist James Carville, that “it’s the economy, stupid,” with a title that emphasized values: “It’s Abortion, Stupid.”¹ Ben Wattenberg moved from his support of a New Deal strategy in the 1970s and 1980s with a new book in 1995 whose title proclaimed, “Values Matter Most.” “I have come to the conclusion,” he wrote, “that the values issues are no longer merely *co-equal* with economic concerns. *The values issues are now the most important.*”²

As Seymour Lipset had noted in 1981, however, the scholarly literature had always suggested that the better educated and more affluent were especially attracted to non-materialist values, while the less educated and less affluent were more traditional in their approach. If so, the Democrats could afford to adopt a liberal cultural policy for the non-materialist suburbanite, but follow a New Deal economic strategy for the lower income. Since the red states were the poorest states, the Democrats might even be able to keep them at least partly competitive with a New Deal economic policy.

In fact, of course, the well-educated “non-materialist” left had economic interests as well as cultural ones. They called themselves “middle class,” and like the Progressives of the beginning of the century, they attacked big business and the rich. Yet, Robert Reich in the mid 1990s was contemptuous about Clinton pollsters who talked incessantly about the married middle-class suburbanites. At the time of the 1996 election, the leading pollster told the cabinet, “This election signals the end of the old Democratic coalition of blacks, the elderly, and the downscale. It marks the emergence of a *new* Democratic coalition of women, Latinos, and, especially, middle-class suburban married couples.”³

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1. Alan I. Abramowitz, “It’s Abortion, Stupid: Policy Voting in the 1992 Presidential Election,” *The Journal of Politics*, vol. 57, no. 1 (February 1995), pp. 176-186.
 2. Ben J. Wattenberg, *Values Matter Most: How Republicans or Democrats or a Third Party Can Win and Renew the American Way of Life* (New York: Free Press, 1995), p. 13. The italics are in the original.
 3. Robert B. Reich, *Locked in the Cabinet* (New York: Alfred A. Knopf, 1997), p. 340. The italics are in the original.

The “middle-class suburban married couples” were defined as those families in which the husbands and wives together often earned well over \$100,000 a year. In fact, only 12% of households earned \$100,000 a year or more in 1999, and another 12% earned between \$75,000 and \$99,000.¹ The top quarter of the population by income, let alone the top eighth of the population, is affluent and even rich by any reasonable definition of the term, not “middle class.” No one really believed that the Democrats could return to a New Deal economic policy without losing votes in the suburbs.

THE NEW DEMOCRATIC SUBURBAN STRATEGY AND THE REPUBLICAN PROBLEM

During the Reagan years, an increasing number of Democrats began to emphasize deficit reduction and to repudiate the Great Society of Lyndon Johnson. The new economic policy emphasized such concepts as “a balanced budget,” fiscal responsibility, and “deregulation.” The change occurred first at the Congressional level, for the same destruction of competitive House elections that made Republican members of Congress more beholden to their religious activists also made the Democrats more sensitive to the Democratic activists, the Baby Boomer professionals in the cities and suburbs. Some Democratic Senators, such as Bill Bradley of the Republican state of New Jersey, followed the same path.²

California, as is often the case, was in the lead. In 1976 Leon Panetta, who had been an official in the Nixon Administration but was fired for policy differences and had changed his party affiliation, was elected Congressman as a Democrat in a very affluent district on California coast that ran from Santa Cruz south through Monterrey and Carmel to the Big Sur. Panetta was very liberal on cultural issues, especially environmental ones, but was “a leader of the fiscally cautious northern Democrats.”³ In 1993, he became one of Bill Clinton’s “super-hawks” on deficit reduction as director of the Office of Management and the Budget.

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1. For the income figures, see US Census Bureau, *The Statistical Abstract of the United States, 2003* (Washington, D.C.: U.S. Census Bureau, 2003), p. 455.
 2. New Jersey even voted against its own governor, Woodrow Wilson, in the 1916 presidential election. Until 1992, it voted only for three Democrats in 6 of the 20 elections of the period — Franklin Roosevelt four times, John Kennedy, and Lyndon Johnson.
 3. Michael Barone and Grant Ujifusa, *The Almanac of American Politics, 1990* (Washington: National Journal, 19893), p. 121.

Marin County, California, an affluent suburb of San Francisco that long had voted Republican, provides the classic case study.¹ In 1988, *The Almanac of American Politics* described the country as “trendy and affluent, liberal though not totally permissive on cultural issues, conservative and sometimes downright stingy and selfish on economic matters.” In 1982 the 6th District based on Marin County elected Barbara Boxer as its member of the House of Representatives. The *Almanac of American Politics* called her “a fitting personification of Marin County politics” as its member of the House of Representatives. Boxer was liberal on cultural issues, but conservative on defense expenditures and “wary of raising domestic spending very much.”² Nancy Pelosi, who was elected to Congress from San Francisco in 1988, had a similar set of policies.

In the 1984 primaries, Gary Hart adopted this “non-materialist” combination of economic conservatism and cultural liberalism, and he almost defeated Mondale in the Democratic primaries. Then in 1988 the Democrats nominated a Northerner, Michael Dukakis, who had a suburban-oriented strategy similar to Hart’s.³ Dukakis lost heavily to George H. Bush, who won all the large Northern and Western states other than New York and Massachusetts, but it was not clear whether Dukakis was simply a poor candidate or whether his strategy was flawed.

Bill Clinton ran for the Democratic nomination in 1992 as head of the southern-oriented Democratic Leadership Council (DLC) and as its candidate. Clinton had been a moderate governor of Arkansas, and he seemed to fit the profile that the Democratic Leadership Council was seeking. Like Carter, neither he nor his wife, Hillary, had given any support at all to the Equal Rights Amendment or to abortion struggles in all the years he had been governor. Clinton seemed to reinforce the point by selecting a running mate from another

1. Marin County did vote for Lyndon Johnson in 1964, but it had voted for Nixon over Kennedy by a 57-46% margin in 1960, Nixon over Humphrey by a 50-44% margin in 1968 and over McGovern by 52% to 46% in 1972. In 1976 Marin County favored Ford over Carter by 53% to 43 and in 1980 Reagan over Carter by a 46-36% margin. Then it divided evenly in 1984 in the Reagan landslide. It voted for Dukakis 59% to 40% and favored Clinton in his two elections and Gore in 2000 by more than a 2 to 1 margin each time. These figures come from *America Votes*, nos. 6 through 24 (Washington, D. C.: CQ Press, 1961-2001). This book of election statistics is published each two years. For decades Richard M. Scammon was its major editor.
2. Michael Barone and Grant Ujifusa, *The Almanac of American Politics*, 1988 (Washington: National Journal, 1988), pp. 91-93.
3. Bill Clinton nominated Dukakis and in his memoirs was correctly to call him a “New Democrat” like himself. Clinton, *My Life*, p. 335.

former state of the Confederacy, Al Gore of Tennessee. Gore was even more moderate than Clinton on economic issues, but emphasized the liberal cultural issue of the environment.

Clinton was deliberately quite ambiguous when he labeled himself as a “New Democrat” in the 1992 campaign. In the economic sphere, he favored a sharp reduction in the deficit, a middle class tax cut, and an expensive health care program. The combination was impossible to achieve, and the question was what would be sacrificed. In fact, Clinton immediately adopted a very clear-cut suburban strategy. While he presented a public image of indecision and a chaotic policy process at the beginning of his Administration, this seems little more than the usual theater of high-quality politics. Robert Rubin, who became the President’s chief economic adviser and then his “prime minister,” began his autobiography by stating that “the Bill Clinton I watched [is] a misunderstood figure.” Rubin did not believe the President was indecisive in his basic priorities. “Chaos was certainly not what I experienced,” Rubin wrote in his memoirs.¹

That Clinton would follow a relatively conservative economic policy was evident even before his inauguration. On December 10, 1992, a month after the election, Clinton introduced five members of his economic team at a press conference. Four were what *The New York Times* called “super-hawks” on a balanced budget and deficit reduction, and the fifth, Robert Rubin, also held these views, although more quietly.² The press called these five persons “the” economic team, obviously a reflection of briefings.

Clinton also had liberal economic advisers, Robert Reich and Laura Tyson, but they were named to minor posts, Secretary of Labor and Chairman of the Council of Economic Advisers respectively. Their appointments were announced along with those of the head of the Environmental Protection Agency and the Secretary of Health and Welfare. Three of the four were women, the point emphasized in the news coverage. No one could think they were key members of “the economic team.”

Clinton held his first key meeting with economic advisers on January 7, 1993, again before his inauguration. The real question on the agenda was the position the key appointees would take at their Senate confirmation hearings

1. Robert E. Rubin and Jacob Weisberg, *In an Uncertain World: Tough Choices from Wall Street to Washington* (New York: Random House, 2003), pp. 6 and 143.

2. Thomas L. Friedman, “Clinton Team Takes Shape with Bentsen and 4 Others Names to Economic Posts,” *The New York Times*, December 11, 1992, p. 1. The character of the team is confirmed in Clinton’s memoirs. Clinton, *My Life*, pp. 451-463.

over the next week. They argued for deficit reduction as their chief priority, but Rubin reports that Clinton showed his commitment to that priority even before they could make their case. Indeed, the position had already been leaked to the press before they appeared before Congress to testify.¹

Clinton quickly abandoned the middle class tax cut that he had promised, but instead supported a gas tax increase that, as he himself acknowledged in his memoirs, was a middle class tax increase.² Although the President raised expenditures for all social goals, almost all the increases were so small that they were little more than symbolic. Clinton's wife, Hillary, was put in charge of developing his comprehensive health program. Yet, she never talked with key figures in the economic team of Administration, and Secretary of Treasury Lloyd Bentsen was told so little about the program that he could not estimate its costs.³

The reason is clear: the health program was not possible in the context of the tax and deficit reduction goals. Key Senators such as Pat Moynihan and Robert Dole signaled their readiness to reach some compromise, but Hillary Clinton never consulted with them or other Congressional leaders.⁴ Many concluded that Hillary was incompetent, but it is far kinder — and surely more accurate — to conclude that the plan always was intended to fail.

Given the extreme hostility of the Democratic Leadership Council to the cultural liberals, the most surprising fact about the Clinton Administration was the speed with which the President wholeheartedly embraced these very cultural groups. Clinton had promised to have a cabinet that “looks like America,” and in his memoirs he testified to his goal “of naming the most diverse administration in history.”⁵ “Diversity” was not defined in its traditional manner as balance among European-Americans, but in modern terms. His original 16 cabinet members included 4 women, 4 blacks, 2 Hispanics, and 1 Lebanese-American. The most radical prominent black, Lani Lanier, was nominated to be Assistant Attorney General for civil rights.

1. Rubin, *In an Uncertain World*, pp. 95-96 and 118-119. *The New York Times*, January 11, 1993, p. 1; January 12, 1993, p. 1, and January 13, p. 16.

2. Clinton, *My Life*, p. 493.

3. Rubin, *In an Uncertain World*, p. 149.

4. Ms. Clinton relied almost totally on Ira Magaziner, a man who, in the words of the liberal Robert Reich, “had the most grandiose plans for government spending.” Reich, *Locked in the Cabinet*, p. 25. The statement is found in a memorandum of December 5, 1992.

5. Clinton, *My Life*, p. 454.

Even more dramatic was Clinton's decision to emphasize a new policy on gays in the military. During the first week of the Administration, the press focused its major coverage on this issue, with reporters making it totally clear that the President wanted the military to accept gays fully and openly and that the top generals, including the chairman of the Chief of Staff, Colin Powell, were strongly opposed. The President told Robert Rubin that he recognized his position "was really going to hurt Democrats in the South for many years to come." When Rubin expressed doubt, Clinton answered. "No, this is going to affect how people look at us for a long, long time."¹ It is difficult to believe that a Southern President who was leader of the Democratic Leadership Council understood this only after he had given such prominence to the issue.

In short, Clinton from the first days of the Administration showed very clearly that he would push for the relatively conservative economic policy and the very liberal cultural policy that constituted a wholehearted suburban strategy. When he agreed to welfare reform at the end of his first term, he was merely taking a decision that dramatized a general strategy already long in place. Indeed, this was a reform that he had already promised in the campaign.

The new Democratic program was highly unsatisfying to the economic left wing of the Democratic Party. The frustration of Robert Reich comes out constantly in his memoirs.² Yet, it proved to be a highly effective coalitional strategy. In the 2000 election, Bush did well in wealthy Southern districts, but Gore won 71 of the 100 congressional districts outside the South with the highest household income and 29 of the next 50 wealthiest. These were traditional Republican areas.

Of course, no political party can win all the votes, and it can afford to lose one group if it gains more votes from others. The Republicans clearly did gain voters in the red states that would have voted for the Democrats in the past. In 2000, Bush did win 45 of the 50 white congressional districts with the lowest household income and 92 of the 125 next lowest, a total of 137 of 175 of the poorest white districts. However, professionals and minority immigrants were the two fastest-growing demographic groups, and both supported the Democratic Party.

1. Rubin, *In An Uncertain World*, p. 154.

2. Reich's epilogue and especially his report on his parting meeting with Clinton are dramatic. Reich, *Locked in the Cabinet*, pp. 339-347, with the parting meeting on p. 347.

The problem for the Republicans was that the pattern of votes shown in Table 1 was not reassuring. First, of course, the population had grown from 236 million in 1984 to 282 million in 2000, but the Republican vote in 2000 was 4 million less than it had been 16 years previously. The Democrats, by contrast, had shown a steady, seemingly normal growth in their vote, even when they lost or when Ross Perot won millions of votes.

Second, turnout had increased only half as rapidly as population, and the large vote in 1992 when Ross Perot was a fresh figure suggested that turnout was declining because a number of voters were alienated from the electoral process. They would come out only when someone tapped these feelings, and the pattern in 1992 and 1996 at least suggested that the Republicans were more vulnerable to a loss of alienated voters than the Democrats.

Table 1: Total Votes in Presidential Elections, 1984-2000, By Political Party

Year	Total Vote (Mills)	Repub Vote (Mills)	Repub %	Demo Vote (Mills)	Demo %	Perot Nader Vote (Mills)	Perot Nader %
1984	92,653	54,555	58.8%	38,577	40.6%	—	—
1988	91,595	48,886	53.4%	41,809	45.6%	—	—
1992	104,425	39,103	37.4%	44,909	43.0%	19,741	18.9%
1996	96,277	39,199	40.7%	47,402	49.2%	8,085	8.4%
2000	105,397	50,455	47.9%	50,992	48.4%	2,883	2.7%

THE EROSION OF THE OLD CULTURAL ISSUES

Occasionally the nighttime landscape is illuminated by a flash of lightning, only to become hidden almost immediately unless a new flash occurs. Such a streak of lightning illuminated the political sky in May 2000 when the Brock Commission of the Republican Party proposed a fundamental change in the way that the party nominated its presidential candidates.¹ It clearly expected Bush to suffer the third straight loss for the Republicans, and it wanted a different set of nominating rules for 2004. The Brock Commission was not composed of

1. Advisory Commission on the Presidential Nominating Process, *Nominating Future Presidents* (Washington: Republican National Committee, 2000).

activists and academics. Brock himself was a former chairman of the Republican National Committee, and three other former chairmen were among its members.

The Brock Commission explicitly wanted to end the front-loading of the primaries — the bunching of primaries at the start of the process and a final decision on the nominee by early March. To accomplish this end, it recommended that the primaries be extended over four months from March through June. One-quarter of the states would hold primaries in each month. The primaries in the least populous states would be held in March, while those in the most populous states would be held in June. Although the number of primaries would be the same each month, the number of voters would not. The 13 least populous states voting in March had 11.5 million people in 2000, while the most populous voting in June had 173.8 million, 62% of the national total. The proposal, the so-called Delaware Plan, had various technical problems, particularly in the financing of the late primary campaigns, but they were not insolvable.

The members of the Brock Commission assumed, although they never said so publicly, that the early Republican primaries in less populous states that are decisive today are likely to be dominated by religious right activists. They were likely to produce a representative of the “red state” coalition — one candidate from Texas in 1988, 1992, and 2000 and one from Kansas in 1996. The Commission clearly believed that this strategy led to far too great a loss of suburban voters. It was implicitly saying that the Republicans had to challenge the growing strength of the Democrats in the well-to-do metropolitan areas by nominating candidates more responsive to their inhabitants. The way to do this was to give these voters the key role in the primaries.

There was a broader issue. Cultural issues cannot be eternal. If some cultural issue is too profitable for one party, the other party must try to neutralize it and change the subject of discourse. If one party changes its basic economic position (as did the Democrats in 1933), the old dominant cultural issue (in this case Prohibition) likely no longer serves the functions it did in the past in “balancing” party appeals. It needs to be changed. But, in addition, young people want their own cultural issues just as they want their own songs. Cultural issues that appealed to parents and especially grandparents seem old-fashioned.

Of course, political parties seldom can change their cultural policies at once. The 75-year-olds today were born in 1930 and still feel the tugs of the anti-Communist cultural appeals of the second half of the 1940s that served as a codeword for the ethnic battles over policy toward Germany. The 55-year-olds

born in 1950 have intense memories of the Vietnam period that can be rekindled as they were in the 2004 campaign. The 40-year-old to 45-year-old European-Americans born in the first half of the 1960s now are simply “whites” and do not remember the battles among European-Americans. They cannot even comprehend that German-Americans and British-Americans had an intense conflict over policy toward Germany from 1945 until the early 1950s. They naturally were extremely puzzled that Vietnam War issues were so salient in 2004.

Parties must skillfully combine cultural issues to appeal across the age spectrum. When Bush discussed al Qaeda in identical language to that used in describing “the international Communist conspiracy,” he spoke to older voters on older issues, not just on terrorism. When Al Gore did not realize that German-American Midwestern retirees in western Florida retained strong memories and feelings from the late 1940s, he paid dearly indeed in that state for his choice of a vice-presidential running mate whom he thought would win for him in eastern Florida. John Kerry never really understood the subtleties of the effects of raising the Vietnam issue once more in nation-wide politics, especially on those who had supported Nixon in his landslide victory over McGovern in 1972.

The cultural issues that we take for granted today have actually been at the forefront for a rather long time. The H. R. Haldeman diaries of 1971 and 1972 make it clear that Nixon deliberately tried to de-emphasize economic issues and emphasized cultural issues that he hoped would mobilize his base. “The real issues of the [1972] election are the ones like patriotism, morality, religion — not the material interests,” Nixon said. He intended to “make patriotism and morality the issue and get above the material things.” Jeb Magruder said after the election that “McGovern was associated with the gay libs, the welfare rights, the black militants, the women’s libs, the pot-smokers, the long-haired college kids.”¹ That was over 30 years ago, a long time in politics.

Although the media do not emphasize the point, both parties act as if they want to reduce the salience of the cultural issues of the recent decades. The Republicans have found that their position on choice has hurt them badly among the suburban women in their old base. The Democrats lost more votes in states such as New Hampshire, Tennessee, and West Virginia on gun control than they gained in other states.

1. These and other such quotations are found in Robert Mason, *Richard Nixon and the Quest for a New Majority*, pp. 63-65 and 180-186.

Gun control has largely disappeared as an issue. The Democrats allowed partial birth abortion to be outlawed, and they named a pro-life Senator as their minority leader. Hillary Clinton has begun to emphasize restrictions on abortion in the third trimester. Most Democrats repudiated gay marriage as they favored civil unions.

Except for a constitutional amendment on gay marriage that has no chance to pass, the Administration came reasonably close to the Democratic position on gay rights. It emphasized its tolerance by actions such as Vice President Cheney's deliberately expressed support for his gay daughter. The President publicly announced his support of civil unions during the campaign.

Indeed, the 2004 campaign was noted for the prominence that leading proponents of women's choice were given at the Republican Convention. These included former New York mayor Rudy Giuliani and California Governor Arnold Schwarzenegger. Then Schwarzenegger accompanied President Bush on his last weekend of campaigning in crucial German-American Ohio. The message to suburban women seemed to be "Believe what we signal, not what we say. Don't worry about Court appointments undermining *Roe v. Wade*." Indeed, those like Giuliani and Schwarzenegger almost surely were given some kind of assurance on the point, although probably general in nature.

One is, of course, strongly reminded of a famous statement by the columnist Walter Lippmann about the studied ambiguity and vagueness of Franklin Roosevelt in the 1932 campaign. "It is not easy to say with certainty," Lippmann wrote, "whether his left-wing or his right-wing supporters are the more deceived."¹ But President Bush does have a brother whom he would like to see continue the dynasty, and Jeb's interests in these issues are likely to be different in the future than those of his brother in the past.

One thing is, however, certain. Cultural issues have changed drastically in the past. They have included relations between England and France under the Founding Fathers, anti-Masonism, anti-Catholic nativism (the "Papal Power"), free soil, the "Slave Power," relations between Germany and England in the early 20th century, Prohibition, anti-Communism, among many others. Each has faded, only to be replaced by another cultural issue.

Yet, emotional issues are indispensable, and one cultural issue is always certain to replace one that disappears. Cultural antagonisms are highly dis-

1. Column of January 8, 1932, in Walter Lippmann, *Interpretations, 1931-1932* (New York: Macmillan Co., 1932), pp. 260-262.

ruptive and even dangerous,¹ but rational actor analysis indicates why they are important in politics. Any narrow cost-benefit calculation shows that it is irrational for the individual to vote in state or national elections. A single vote can never have a benefit in the sense of having a chance to influence the outcome, but it always has a cost in time and maybe even in money.² Information costs can be among the highest, especially in elections other than for President. As Morris Fiorina accurately states with extraordinary bluntness, “citizens ... appear to have no apparent personal incentive to be informed ... Just as nonparticipation is rational, so is ignorance.”³

Since this is so, voting must be made compulsory, as it is in a number of countries, or stimulated by non-rational factors.⁴ Duty or conscience is one possibility, and emotion is another. The great advantage of cultural issues is that they stir emotions and often are crucial in producing party identification and turnout. If the cultural issues since the 1970s have begun to fade, something must replace them.

THE ISSUE OF NATIONALISM

As the quotations cited above remind us, Richard Nixon emphasized the issue of patriotism. The Republicans always favored a strong defense in their rhetoric — but probably because Republican Presidents always cut military expenditures (except in Reagan’s first term) and Democratic Presidents always raised them. The Republicans, however, were highly restrained in their nation-

1. For an extremely insightful analysis of the emotions produced by the almost forgotten Prohibition issue that produced emotions as intense as the last two elections, see Joseph R. Gusfield, *Symbolic Crusade: Status Politics and the American Temperance Movement* (Urbana: University of Illinois Press, 1963), pp. 177-188. Gusfield discussed the issue more fully in his “Mass Society and Extremist Politics,” *American Sociological Review*, vol. 27 (February 1962), pp. 19-30.
2. The classic analysis of the collective action problem is found in Mancur Olson, *The Logic of Collective Action* (Cambridge, Mass.: Harvard University Press, 1965).
3. Morris P. Fiorina, “Information and Rationality in Elections,” in John A. Ferejohn and James H. Kuklinski, *Information and Democratic Processes* (Urbana: University of Illinois Press, 1990), p. 335.
4. Mancur Olson would also suggest that “selective side payments” — benefits other than the collective good — also often induces participation. recent imaginative attempt to provide an incentive to vote has been to make a computerized list of those who voted and enter them in a free lottery with a very large payoff.

alism in the 20th century, for they were essentially a coalition of the Protestant German-Americans and the British-Americans. This virtually drove them, first, to isolationism when England and Germany were hostile to each other, and then to the détente with the Soviet Union that might facilitate the re-unification of Germany. Not surprisingly, every Republican President from Eisenhower through George H. Bush improved relations with the Soviet Union, while Democratic Presidents prior to Clinton always had conflict.

The re-unification of Germany and the end of conflicts among European-Americans transformed American domestic politics in a fundamental way that has never been fully understood. The issue of nationalism could be used in ways that were not possible in the past, for it had far fewer direct domestic consequences. The first to realize this was H. Ross Perot in 1992, and he won 19% of the vote in 1992, the only third party candidate since the Civil War to receive so many votes other than Theodore Roosevelt in 1912. Perot received some 22% of the vote among white men. As Table 1 indicates, he was receiving a high percentage of a total vote that itself was abnormally high. Indeed, his presence in the race surely was stimulating a high turnout.

Those who wanted a balanced budget in the Clinton Administration contended that the Perot vote was based on a desire for fiscal responsibility, but Perot was calling for a 50-cent-a-gallon tax on gasoline. That certainly is not the issue that gained him mass support. Rather it was nationalism at a time of great economic malaise.

The Perot phenomenon has been little studied by political scientists, and the reasons for his high vote are rather a puzzle at first glance. George H. Bush was a competent, if not inspiring, President, and the economy was beginning to grow out of recession. Bush's agreement to a tax increase cost him votes, but Perot was calling for an end to deficits and a huge increase in taxes on gasoline. Bill Clinton is seen in retrospect as one of the great politicians of his age. There seems little reason for nearly 20% of the voters to reject both men in order to support a very implausible candidate who had dropped out of the election in the summer, only to return in October — and to do so with a sharply rising voter turnout.

Those who have examined the data do not find striking socioeconomic differences between those who voted for Perot and those who voted for other candidates, at least among white males. (A lower percentage of women and minorities did vote for him.) However, the level of alienation was higher among

Perot's supporters than among the population as a whole, and in 1992, even non-Perot supporters were very alienated.

In 1964, 63% of all whites and 69% of blacks had thought that government was run for the benefit of all people instead of a few interests; in 1992, these figures had fallen to 20% and 19% respectively. In 1964, 77% of whites and 74% of blacks said that government could be trusted to do what was right almost always or most of the time; in 1992, these figures stood at 29% and 26% respectively.¹

Perot was relatively liberal on cultural issues such as women's rights, and he clearly was not primarily tapping alienation on such issues. Discontent on economic issues and especially the stagnation of wages in the 1970s and 1980s must have been the core factor that was fueling a huge protest vote. The population saw the Republicans as less responsive to them on economic issues than the Democrats, but the Democrats as unresponsive as well.² The Democrats' movement to the right on economic issues to appeal to suburban voters left many with no economic choice in either party. But Perot wrapped economic discontent in nationalism. NAFTA and the export of jobs served as the direct link, but Perot knew how to talk about this question as a populist cultural issue. Although his major 1992 book, *United We Stand: How We Can Take Back Our Country*, dealt overwhelmingly with domestic policy, it emphasized that domestic change was necessary to make America strong once more. The first chapter was entitled "An America in Danger," and the title of the last chapter repeated the theme. The theme was expressed in a few words in the middle, "We're engaged in a new war for economic survival." The main enemy was Germany and Japan, and nothing was said to suggest that much had changed since World War II.³

The issue of national power, however, also symbolized more general feelings of lack of control. The foreign policy establishment had the sense of a great American victory in the Cold War and of a United States that towered over the rest of the world as the only remaining truly great power. The broader American public had a reason to have a different impression.

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1. Paul R. Abramson, John H. Aldrich, and David W. Rohde, *Change and Continuities in the 1992 Election* (Washington: CQ Press, 1994), p. 122.
 2. Voters' views are ably documented in Jeffrey M. Stonecash, *Class and Party in American Politics* (Boulder, Colo.: Westview, 2000), p. 52.
 3. H. Ross Perot, *United We Stand: How We Can Take Back Our Country* (New York: Hyperion Books, 1992).

Iraq was an especially strong symbol of American weakness. Saddam Hussein had had the temerity to challenge the United States in Kuwait, and, despite assembling a mighty military force, Bush obviously was too afraid or too weak to remove Hussein from office even though Iraq was no longer supported by the Soviet Union. Instead, the President was known as a man who knew all world leaders by their first names and continually talked with them on the phone. He publicly explained the limited goal in Iraq by the need to keep the coalition together.

Other foreign policy issues also seemed to symbolize American weakness. The Administration did not react to Chinese suppression of students in Tiananmen Square, but visibly condoned it.¹ The economic reforms the United States was introducing in the former Soviet Union already seemed to be failing, and many worried about a Communist or nationalist victory in the forthcoming Russian elections of 1993.

Bill Clinton's image in 1992 was even worse from a nationalist perspective. Clinton had avoided the draft during the Vietnam War, and a letter he wrote to the head of his draft board about his manipulation of the draft system was released during the campaign. Perot's support in the polls was particularly high at this time. Clinton's chief foreign policy adviser was Anthony Lake, and the challenger talked most about the global issues that Lake emphasized—environmentalism, democratization, human rights, and so forth. In the last month of the campaign, Clinton explicitly endorsed the free trade act with Mexico and Canada, NAFTA.

Perot first came to public notice in 1971 when he unsuccessfully tried to organize the delivery of Christmas packages to prisoners of war in Vietnam in 1971 in a well-publicized effort. He became even better known in the 1980s with his charges that the American government was abandoning Americans missing in action who were still alive in Indochina. During this campaign, Perot developed highly bitter feelings toward George Bush on the subject and then had been a critic of Bush in his Iraq war in early 1991. Clearly the theme had resonance, for he took far more votes from Bush than from Clinton.

1. *The New York Times*, December 10, 1989, p. 1.

GEORGE W. BUSH AND NATIONALISM

George Bush was elected in 2000 with a thoroughly “red-state” strategy. Bush calculated well, for most agreed that the economic prosperity of the Clinton years gave Bush little chance for victory. However, the 42 least populous states now had 6.8 million fewer people than the 9 most populous, but 297 Electoral College votes to 241 for the latter. If Bush could sweep the South, Prairie, and Mountain states other than Florida and also win Indiana that always voted Republican, he had 226 Electoral College votes.¹ If he could win Florida, he would be only 19 votes from victory. A variety of fortuitous events could give him those 19 votes, most obviously a victory in Ohio. The fact that he won 30 states to Gore’s 21 (and 18 extra Senatorial electors) allowed him to win the Electoral College even though Gore had 550,000 more total votes.

As Bush looked forward to the 2004 election, however, he faced the reverse side of his safe red-state Electoral College votes. Even assuming that the economy would be healthy enough to permit a Bush victory, the Democrats would have 173 Electoral College votes virtually assured them. Another 49 votes in Michigan, Pennsylvania, and Washington seemed likely if the election were close. The Democrats would need only another 48 Electoral College votes.

The election would be decided in the old Midwest, and most of this area was too urbanized and liberal to be naturally attracted to the cultural themes Bush used in the 2000 election. If the Democrats nominated a ticket that included in some order Dick Gephardt, the German-American Protestant from Missouri who favored a New Deal strategy, and a Northern Catholic attractive in the suburbs, that should be a very strong ticket in the Midwest. After all, neither Al Gore nor Joseph Lieberman added anything geographically to the ticket, and Gore personally was a very weak candidate. Nevertheless, Gore still had won by 550,000 votes.

Bush needed to deal with the suburban strategy of the Democrats, but he did not have an easy answer to it. If he simply abandoned his cultural policy, this would not be credible either in rural or urban states. Means-tested social programs for the poor and middle income would be attractive in holding his poor-state base, and his prescription drug program served that purpose. Such means-tested programs were not, however, attractive to suburbanites who wanted entitlements for Americans of all income levels — naturally including themselves.

1. This figure includes the Border States of Kentucky, Missouri, and West Virginia.

Universal entitlements that the Democrats favored would not be compatible with the large tax reductions that Bush wanted and that were also beneficial for many suburbanites.

Even before the tragedy of September 11, Bush acted as if he believed that nationalism was an important cultural issue that could be used to supplement or perhaps even partially replace the cultural issues of 2000. His strong emphasis on missile defense and repudiation of the ABM treaty, his attack on the United Nations and “excessive” reliance on foreign cooperation as in the Kyoto Treaty — all these preceded the attack of September 11th. On September 11 itself, National Security Adviser Condoleezza Rice was scheduled to give a speech on missile defense.

After September 11, the President treated the terrorist attack as if it were similar to Pearl Harbor, and he drew parallels between the war on terrorism and World War II. The al Qaeda network was described in language identical with that used in the past about “the “international Communist conspiracy.” As has been mentioned, Bush used Ross Perot’s main slogan “United We Stand” for his own response to the September 11 attack, but he did not acknowledge the source of the slogan. The terrorist attack of September 11 permitted the President to become a wartime President, especially after his brilliant job of rallying Americans in the weeks immediately after the attack.

A variety of types of evidence indicate that Bush was also eager from the beginning to reverse his father’s decision to leave Saddam Hussein in office. The reasons for the new President’s obsession with “regime change” in Iraq are not clear. Some see a personal motive, either a desire to avenge the presumed Iraqi attack on the former President after he left office or perhaps a continuation of the son’s earlier revolt against his father and his desire to upstage his father in the foreign policy sphere. Still others see an ideological-fundamentalist religious motive or perhaps the undue influence of neo-conservatives who had their own agenda. This is the type of question on which we never have conclusive evidence on the thinking of any President even after archives are open. It is, however, seldom wise to ignore altogether political re-election strategy in the case of a person skilled enough to have been elected President.

A successful war in Iraq, coupled with the missile defense program, would have mobilized nationalist feelings quite well. If George H. Bush had been punished as a wimp for refusing to capture Baghdad and for excessive courting of foreign leaders, then regime change and antagonistic foreign leaders would presumably create the opposite image for his son. In any case, the President and his

supporters gloried in their scorn for foreign criticism and insisted on the importance of America defending its interests as the Administration alone defines them. Government spending on the military, like that by Ronald Reagan in the 1980s, served as a classic Keynesian program at a time of economic recession.

THE 2004 ELECTION AND BEYOND

The ultimate consequences of the Republican use of the nationalist issue in the 2004 election are still uncertain. Surely the issue contributed to a large turnout — 60.7% of the eligible voters, levels not seen since the 1960s.¹ In principle, this is a good thing, but one can imagine a time when the nationalist issue is used by a candidate much further removed from the Establishment than the present incumbent. That would not be reassuring.

Unfortunately, it is still premature to judge accurately the forces that motivated the large turnout in 2004, for the public opinion polls failed to catch what was occurring. Most of those conducting the polls thought that a large turnout would make a Kerry victory certain. Some such as Stanley Greenberg understood toward the end of the campaign that a large percentage of workers were voting for Bush, while a large number of professionals was supporting Kerry. Yet, perhaps because he was working for groups supporting the Democratic Party, he did not talk in public about the reasons why.

Exit polls are supposed to illuminate the reasons for the decisions of voters. Yet, in 2004 they not only were inaccurate in their overall projections, but they presented demographic analyses that are hard to believe. For example, if one believes the exit polls, Kerry received 11 percentage points lesser support than Gore in cities with over 500,000 people, but 3 percentage points more than Gore in rural areas and 10 percentage points more in cities and towns from 10,000 to 50,000 population. It seems an unlikely combination.

More worrisome, the exit poll questions about issues totally failed to tap nationalist feelings. The poll showed that “moral values” was the most important

1. The 2004 official data, here as elsewhere in the article, are provided by Curtis B. Gans, Director of the Committee for the Study of the American Electorate. Turnout was 53.8% in the Truman election 1948, 63.0% and 60.6% in the two Eisenhower elections of 1952 and 1956, 64.0% in the Kennedy election of 1960, 61.7% in the 1964 Johnson election, and 60.6% in 1968. *Historical Statistics of the United States: Colonial Times to 1970* (Washington: US Government Printing Office, 1973), part 2, p. 1071.

of four issues, and this led the media to exaggerate the power of the religious right. In fact, the poll gave respondents an insufficient range of choices, and committed Republicans who vote for Republican candidates every election were almost driven to the “moral issue” answer even if they were basically secular. Other polling agencies may have asked questions that tap nationalist feelings, but the desire for comparability in analyzing elections over time leads to a retention of old questions and to difficulty in analyzing new forces.

The regional breakdown of official election returns in Table 2 suggests that areas with a strong religious right had a large increase in the percentage of vote received by Bush in the 2000 election in comparison with that received by Dole in 1996 and that his bigger gains in 2004 occurred in New England and the Mid Atlantic states, areas where the religious right is relatively weak. This needs to be the subject of the most serious study.

It also is difficult to analyze the long-term consequences of the use of the nationalist issue in 2004. The cultural issues of the 1970s through the 1990s seem in long-term decline, and the Republicans surely cannot run a repeat of their 2004 campaign in 2008. If Americans feel highly insecure in 2008 or if the country is still in some kind of war in the Middle East, voters are not likely to think that the Republicans were skilled in handling these issues over a seven-year period. But if a long struggle seems over, even solved successfully, people will have a tendency to want change. In 1945 Winston Churchill lost in an election held immediately after the war, and in November 1943 Harry Hopkins, Roosevelt’s chief lieutenant, told General Eisenhower’s top aide that the President could not be re-elected in 1944 if the war were over. Hopkins almost surely spoke for the President. A Gallup poll in 1944 confirmed this judgment.¹

1. Harry C. Boucher Diary, November 23, 1943, Boucher Papers, Box 197, Dwight Eisenhower Museum, Abilene, Kansas. Boucher published much of this diary in 1946, but as usually was the case with diaries that appeared so early, sensitive political points such as this were excluded. Harry C. Butcher, *My Three Years with Eisenhower: The Personal Diary of Captain Harry C. Butcher, USNR, Naval Aide to General Eisenhower, 1942-1945* (New York: Simon and Schuster, 1946), pp. 444-450 includes almost the entire entry November 23rd except for this point.

Table 2: Democratic and Republican Vote for President, By Region, 1996-2004

Region	Year	Total	Republican		Democratic		Perot-Nader	
South	1992	29,732	12,591	42.3%	12,337	41.5%	4,655	15.7%
	1996	28,314	12,967	45.8%	13,098	46.3%	2,037	7.2%
	2000	31,617	17,172	54.3%	13,731	43.4%	442	1.4%
	2004	37,647	21,423	56.9%	15,942	42.3%	—	—
South Minus Florida	1992	24,418	10,417	42.7%	10,265	42.0%	3,602	14.8%
	1996	23,010	10,722	46.6%	10,551	45.9%	1,553	6.7%
	2000	25,654	14,259	55.6%	10,819	42.2%	355	1.4%
	2004	30,037	17,458	58.1%	12,358	41.1%	—	—
Mid-Atlantic	1992	17,733	6,325	35.7%	8,427	47.5%	2,866	16.2%
	1996	16,135	5,637	34.9%	8,889	55.1%	1,345	8.3%
	2000	17,472	6,937	39.7%	9,875	56.5%	515	2.9%
	2004	19,755	8,644	43.8%	10,901	55.2%	—	—
New England	1992	6,351	2,012	31.7%	2,820	44.4%	1,479	23.3%
	1996	5,703	1,769	31.0%	3,237	56.8%	576	10.1%
	2000	6,086	2,251	37.0%	3,417	56.1%	343	5.6%
	2004	6,652	2,717	40.8%	3,842	57.8%	—	—
Midwest	1992	25,196	9,167	36.4%	10,860	43.1%	5,037	20.0%
	1996	22,619	8,929	39.5%	11,206	49.5%	2,198	9.7%
	2000	24,589	11,740	47.7%	12,006	48.8%	613	2.5%
	2004	28,275	14,032	49.6%	14,017	49.6%	—	—
Prairie and Mountain	1992	10,158	4,034	39.7%	3,549	34.9%	2,461	24.2%
	1996	9,502	4,577	48.2%	3,874	40.8%	883	9.3%
	2000	10,276	5,827	56.7	3,928	38.2%	349	3.4%
	2004	12,391	7,337	59.2%	4,895	39.5%	—	—
Pacific	1992	15,255	4,974	32.6%	6,915	45.3%	3,245	21.3%
	1996	14,010	5,321	38.0%	7,098	50.7%	1,047	7.5%
	2000	15,355	6,528	42.5%	8,034	52.3%	621	4.0%
	2004	17,544	7,876	44.9%	9,430	53.8%	—	—
Total	1992	104,425	39,103	37.4%	44,909	43.0%	19,742	18.9%
	1996	96,277	39,199	40.7%	47,402	49.2%	8,085	8.4%
	2000	105,397	50,455	47.9%	50,992	48.4%	2,883	2.7%
	2004	122,265	62,028	50.7%	59,029	48.3%	—	—

The 2004 figures were calculated from Curtis B. Gans, 'Turnout Exceeds Optimistic Predictions,' January 14, 2005.

The Bush Administration has another problem if its Middle East policy seems successful. Its supporters will say this shows the wisdom of nationalistic unilateralism, and the Administration itself will find it natural to be assertive. The realist theory of international relations is, however, right in suggesting that weaker powers ultimately unite against a power that seems too strong. In this case, oil-producing countries that fear being overthrown can keep oil prices high, at least in dollars, and major economic powers can shift their reserves away

from dollars into a mixture of currencies. Indeed, this is already happening, for OPEC is keeping oil prices reasonably stable in Euros rather than in dollars and many countries are diversifying their currency reserves.¹ These are not attractive policies for American domestic politics.

The Democrats for their part have no consistent position on national issues — and parties need to be fairly united on their cultural themes for them to be successful. Some Democrats want their party to return to its Cold War posture when Democratic presidents compensated for their pro-peace activists by being harder in their policy toward the Soviet Union than the Republicans. Others want to emphasize the globalization themes of the Clinton Administration — free trade, environmental issues such as the Kyoto Treaty, opposition to anti-ballistic defense, democratization and human rights, and so forth.

Neither option seems politically attractive. If Iraq works out well, the Bush Administration took such extreme positions on democracy that Republicans will be difficult to be outflanked on the issue. If Iraq works out badly, the issue of democratization will be discredited. If the population thinks the US is overextended and wants a more isolationist policy, it will want anti-missile defense. And, of course, the Senate rejected the Kyoto Treaty unanimously, an accurate reflection of the popularity of that issue in the United States.

The real problem for the political class is uncertainty about the economic future and the lack of sophistication in the discussion of foreign economic questions in the broader political arena, especially in the context of the huge and unsustainable trade deficit. Free trade has become almost a religious act of faith among the educated secular element of the population, and it is not seriously analyzed. The theoretic argument for free trade, it is forgotten, assumes shifting currency values that keep trade balances more or less in balance. It usually also is forgotten that finished goods or components produced abroad, whether by American companies or not, and shipped to the United States are imports as much as petroleum or Chinese toys. Policies toward outsourcing have tradeoffs for the cost of tourist travel to Europe.

The value of outsourced goods and services is not some permanent reflection of “productivity,” but reflects currency exchange rates. An American in the tourist section of Shanghai in 2004 could buy a can of Diet Coke for 40 cents,

1. The desire of the oil producers to have a stable income and the dependence of this stability on a rise in the dollar price is a repeated theme on financial talk shows such as CNBC. In fact, of course, the so-called sharp rise in petroleum prices has not occurred for European countries.

half of the cost in other areas of the world. This suggests a currency imbalance of 100%. If so, components and goods imported from China are grossly under priced in dollars and are indeed unfair competition for American workers.

If there is a major collapse of the dollar and/or a sharp rise in interest rates to defend the dollar, the politics of the rest of the decade are likely to be very difficult. It is possible that one party or the other, or perhaps a third party, will decide to return more seriously to the campaign of Ross Perot in 1992. Perot was not linking military and anti-terror measures to nationalism. He was calling for a reduction in military spending. He was linking nationalism to economic performance and essentially was calling for sacrifice in the economic war in which the country was engaged. Perot himself was an unattractive potential President, but his program was an attractive and safe way to use nationalist cultural appeals in very difficult conditions.

There is another, more long-term, danger. The United States needs large-scale immigration to finance Social Security and Medicare for the Baby Boomers, but immigrants often are a convenient scapegoat at a time of deep trouble. Historians may conclude that Bush decided to scapegoat the smallest and most recent group in order to divert anger from the much larger Hispanic and Asian groups of greater importance to the country. If it works, historians may even show some admiration for this policy as a highly distasteful lesser evil. If the issue arises again in the context of economic difficulties, it will not be limited to Muslims.

At a minimum, analysts of American politics should not forget the political reasons that the President decided to emphasize nationalism and to appropriate Ross Perot's slogan, "United We Stand." The existing party coalitions do, in fact, fail to provide programs that give all income groups a satisfying choice in difficult economic conditions. The old cultural issues are no longer working well. Yet, the abandonment of economic issues has become so accepted that the liberal-conservative ratings of Congressmen no longer even include such issues in their rankings, only cultural ones.

Whether economic issues are linked with nationalism or not, their neglect in the current political arena needs to be rethought. Since the Democrats moved away from the New Deal in the 1972, they have lost 6 of 9 presidential elections and seem to have become a permanent minority party on the gubernatorial and Congressional level as the Republicans did in 1972. The Republicans improved their position in the 1970s only because they changed their coalitional strategy. The Democrats need to rethink how they are going to respond to the relative real positioning of the two parties on economic issues. The combination of New Deal

rhetoric and an economic policy that rejects the New Deal seems to have reached the point of being unproductive.

The issue, however, goes beyond one of party advantage to one of health of the polity. The American public is not that polarized, but the existing party coalitions have focused the struggle so much on cultural issues that sharply divide Americans that they have created a political polarization. If one party directs its economic appeals to one stratum of the population and its cultural appeals to the other and if the other party reverses these appeals, then voters will have the sense that the winner represents some of their interests and values, regardless of who wins.¹ If large parts of the public feel alienated from both parties on economic issues and elections are fought only on emotional cultural issues, then the campaign will be emotional and losers will think they have totally lost.

A key consequence of this problem was easy to see after the election. The approval rating of a presidential winner normally rises sharply after the election, but this did not occur in 2004. This is not healthy, all the more so if economic and foreign policy difficulties lead to a level of alienation even greater than in 1992. Both parties must give far more thought to the nationalist issue and how to use it safely in a period when the United States is likely to have many unsettling adjustments to make.

1. This point was emphasized in the first detailed scientific study of elections in 1940. Paul F. Lazarsfeld, Bernard R. Berelson, and Hazel Gaudet, *The Party Choice* (New York: Duel, Sloan, and Pearce, 1944), AND David Truman, *The Governmental Process* (New York: Knopf, 1951).

CONTRIBUTORS

Douglas J. Becker is the Acting Director of the Peace and Conflict Studies Program in the School of International Relations at the University of Southern California. He is currently researching a book explaining why the United States opposes the International Criminal Court. He received his Ph.D in 2002 from the University of Connecticut..

Dowling G. Campbell is an associate professor of English at Northern Arizona University. His experience in teaching writing ranges from composition to technical writing. His experience in teaching literature ranges from Classic to Southwest, contemporary, and popular literature. He is currently completing a book on Shakespeare's Hamlet.

Sayuri Guthrie-Shimizu is an associate professor of history, Michigan State University, and holds a PhD in American History from Cornell University.

Jerry Hough is James B. Duke Professor of Political Science at Duke University. A long-time specialist on the Soviet Union, his last book is *The Logic of Economic Reform in Russia* (2001). Hough is now working fulltime on American political development and politics as a case study for a theory of democratization. His book *Changing Party Coalitions: The Mystery of the Red State-Blue State Alignment* is forthcoming from Algora Publishing.

Jaina L. Moan is a PhD candidate in political science at Northern Arizona University. She received a BS in chemistry and biology from NAU and is currently employed as a research associate for the Colorado Plateau Stable Isotope

Laboratory. She is interested in examining the link between science and policy-making through an interdisciplinary lens.

Don Rich holds an MA from Johns Hopkins University and is a PhD candidate in economics and political science, University of California, Irvine. An instructor at Delaware and Montgomery County Community Colleges in economics and political science, he has authored an op-ed piece on Afghan Constitution for the *Philadelphia Inquirer*, and frequent articles on US foreign policy on the CENSA (Council for Emerging National Security Areas) web-site.

John Kemoli Sagala is a PhD candidate in Political Science at Northern Arizona University with emphasis in International Relations and Comparative Politics with sub-fields in public policy analysis and development in Africa. Mr. Sagala holds an MA in Political Science and a Master of Public Policy Analysis from the University of Northern Iowa. His research interests are international organizations, international security, foreign policy analysis especially US-Africa, US-UN and development in the Horn of Africa (Kenya, Uganda, Tanzania, and Sudan).

Zachary Smith is a Regents Professor of Political Science at Northern Arizona University. He received his BA from California State University, Fullerton and his MA and PhD from the University of California, Santa Barbara. He has taught political science and public administration at Northern Arizona University, the Hilo branch of the University of Hawaii, Ohio University and the University of California at Santa Barbara; and has served as the Wayne Aspinall Visiting Professor of political science, public affairs and history at Mesa State College in Colorado. He is the author or editor of nineteen books and numerous articles on environmental and natural resource policy topics. He currently teaches environmental and natural resource policy and administration in the public policy PhD program at Northern Arizona University.