**IRRI-KIIB  - Conference Address**

**"From Presidential Wars to American Hegemony:   
The constitution after 9/11"**

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The use of military force by President George W. Bush against Iraq poses a threat to constitutional government, civil liberties, and national security (both here and abroad). It represents the culmination over the past 50 years of unilateral presidential wars accompanied by few checks from Congress or the judiciary. Academics, the media, and the general public have shown little understanding of constitutional limits and little interest in keeping the President within legal bounds. The current Iraq War reflects the ideological efforts of neoconservatives who have promoted, in recent decades, a far-reaching military agenda to assure American hegemony (the term they prefer) in world affairs. Their detailed plans, kept largely on the shelf, were activated with a rush after the 9/11 terrorist attacks.

Bush came to Congress in 2002 to seek statutory authority for military action against Iraq, but when he ordered combat operations the following spring he relied solely on what he considered to be his independent powers under the Constitution.  Unilateral actions occurred elsewhere, including the creation of military tribunals and the designation of U.S. citizens as “enemy combatants,” denying them access to defense counsel or a trial.  Although Bush’s war against Afghanistan attracted widespread support in the United States and in other countries, military operations in Iraq split the nation and alienated many allies.  Opposition to the war in Iraq developed because the administration presented misleading, strained, and false justifications; failed to competently plan for and execute the war; permitted atrocities at Iraqi prisons; and incurred unnecessarily heavy costs in lives and funding.  Spinning off from the war are fundamental questions about presidential authority, truthfulness, judgment, and competence.

These issues are not new.  The framers thought about and rejected the idea of Presidents initiating war.  They had good reason not to trust executive judgments in matters of war.  Their reading of history convinced them that executives went to war not for the national interest but for reasons that had more to do with personal, family, and partisan ambitions.  The framers’ distrust, sound at the time, has been validated and confirmed throughout America’s history.  Yet the record over the past half-century has been to concentrate much of the war power in the presidency, contrary to the framers’ intent, the constitutional text, and basic principles of republican government.  Many sectors of American society, including the academy and the media, have contributed to the steady decline of representative government, checks and balances, and separation of power.

**I.  Chaining the Dog of War**

There should be no doubt about the framers’ decision to prohibit presidential wars. British precedents, on which they relied extensively in so many areas, assigned all of external affairs to the King: declaring wars, raising armies, making treaties, appointing ambassadors, and issuing letters of marque and reprisal (to authorize private citizens to engage in military actions). The U.S. Constitution grants not a single one of those powers to the President. The powers to declare war, raise armies, and issue letters of marque and reprisal are placed exclusively in Congress. The powers to make treaties and appoint ambassadors are given jointly to the President and the Senate. Expressing satisfaction with the drafting and ratification of the Constitution, Thomas Jefferson observed: “We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.”

The wholesale rejection of the British model reflects the framers’ strong commitment to republican government. As part of a radical experiment with self-government, Americans would rule through elected representatives and a system of one branch checking another. The method of assuring public control was to vest in Congress the decision to initiate war against another country. Unfortunately, few citizens or public servants in the United States today have any idea of what a republic is, much less are prepared and willing to fight for it. Even if contemporary opinion leaders believe that Presidents may initiate war, there can be no question about the framers’ intent and no question about what the Constitution expressly states in the *text*. If we continue to describe the United States as a constitutional republic, we have a duty to respect the Constitution, especially with regard to going to war. Yet over the past half-century, constitutional values and principles have been largely ignored.

A.  Founding Principles

At the Philadelphia Convention, Pierce Butler wanted to give the President the power to make war, arguing that he “will have all the requisite qualities, and will not make war but when the Nation will support it.” The delegates uniformly rejected his proposal.Roger Sherman explained that the President “shd. be able to repel and not to commence war.” Elbridge Gerry said he “never expected to hear in a republic a motion to empower the Executive alone to declare war.” George Mason spoke “agst giving the power of war to the Executive, because not <safely> to be trusted with it; . . . He was for clogging rather than facilitating war.”  At the Pennsylvania ratifying convention, James Wilson expressed the prevailing confidence that the American system of checks and balances “will not hurry us into war; it is calculated to guard against it. It will not be in the power of a single man, or a single body of men, to involve us in such distress; for the important power of declaring war is vested in the legislature at large.”

What did the framers understand that we have forgotten? Why did George Mason say that it was not “safe” to trust the President with the war power? In their study of past governments, the framers understood that executives, in their search for fame and glory, had an appetite for war.  John Jay, whose political experience lay with foreign affairs and executive duties, nonetheless warned in Federalist No. 4 that “nations in general will make war whenever they have a prospect of getting any thing by it; nay, absolute monarchs will often make war when their nations are to get nothing by it, but for purposes and objects merely personal, such as a thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans. These and a variety of other motives, which affect only the mind of the sovereign, often lead him to engage in wars not sanctified by justice or the voice and interests of his people.”

Who can read those words without thinking of presidential wars undertaken for partisan and personal reasons, rather than in the interests of the people? One example is the decision by Lyndon B. Johnson to escalate the war in Vietnam. He knew that Southeast Asia was not the place to be and that victory was unlikely, but he worried that the Republicans would exploit any sign of weakness on his part. Despite great misgivings, he deepened the U.S. involvement to avoid appearing “soft on Communism.”  Instead of formulating a plan for the national interest, Johnson pursued “his own political fortunes” and chose to lie “in the pursuit of self-interest.”  The national interest gave way to presidential deception, misrepresentation, distortion, gross understatements, and outright lies.

In 1793, James Madison called war “the true nurse of executive aggrandizement. . . . In war, the honours and emoluments of office are to be multiplied; and it is the executive patronage under which they are to be enjoyed. It is in war, finally, that laurels are to be gathered; and it is the executive brow they are to encircle. The strongest passions and most dangerous weaknesses of the human breast; ambition, avarice, vanity, the honorable or venial love of fame, are all in conspiracy against the desire and duty of peace.”  Five years later, in a letter to Thomas Jefferson, Madison said that the Constitution “supposes, what the History of all Govts demonstrates, that the Ex. is the branch of power most interested in war, & most prone to it.  It has accordingly with studied care, vested the question of war in the Legisl.”

B.  From 1789 to 1950

For a century and a half, America honored the values and political structures established by the framers. Presidents could take certain actions of a defensive nature (to repel sudden attacks), but any offensive action against another country was reserved to congressional judgment. Writing in 1793, President George Washington said that any offensive operations against the Creek Nation must await congressional action: “The Constitution vests the power of declaring war with Congress; therefore no offensive expedition of importance can be undertaken until after they have deliberated upon the subject, and authorized such a measure.”  Secretary of War Henry Knox informed Governor William Blount that Congress had decided to avoid war with the Creeks: “Congress alone are competent to decide upon an offensive war, and congress have not thought fit to authorize it.”

Military actions against other nations followed the same exacting standard. When President John Adams decided it was necessary to use military force against France in 1798, he presented the matter to Congress and awaited statutory authority. In 1801, President Jefferson took certain military actions against the Barbary pirates in the Mediterranean, but then announced that he was “unauthorized by the Constitution, without the sanctions of Congress, to go beyond the line of defense.”  When conflicts arose between the United States and Spain four years later, he said that “Congress alone is constitutionally invested with the power of changing our condition from peace to war.”

The federal courts understood that the power to initiate war against other countries lay exclusively with Congress. In 1801, Chief Justice John Marshall observed: “The whole powers of war being, by the constitution of the United States, vested in congress, the acts of that body can alone be resorted to as our guides in this inquiry.”  A federal circuit in 1806 repudiated the idea that a President could authorize military adventures abroad: “it is the exclusive province of congress to change a state of peace into a state of war.”  President James Polk took decisive initiatives to provoke a military clash between U.S. and Mexican forces, but he never asserted that he could go to war on his own. After he presented the matter to Congress, it was up to lawmakers to decide between war and diplomatic alternatives. Congress chose war.

The Civil War illustrates that all three branches understood that only Congress could authorize war against another nation. When the Supreme Court in 1863 upheld Lincoln’s blockade against the South, Justice Robert Grier emphasized that the President as Commander in Chief “has no power to initiate or declare a war against either a foreign nation or a domestic State.”  The executive branch, in court, took exactly the same position. Richard Henry Dana, Jr., who represented the White House, conceded that Lincoln’s actions had nothing to do with “the right *to initiate a war, as a voluntary act of sovereignty*. That is vested only in Congress.”

**II.  Unconstitutional Presidential Wars**

On many occasions, from 1789 to 1950, Presidents used military force without first obtaining congressional authority. None of those actions, however, could be called a major war. Edward S. Corwin said that the list of presidential initiatives consists largely of “fights with pirates, landings of small naval contingents on barbarous or semi-barbarous coasts, the dispatch of small bodies of troops to chase bandits or cattle rustlers across the Mexican border, and the like.”  Respect for constitutional government ended abruptly in 1950 when President Harry Truman took the country to war against North Korea singlehandedly. At that same moment the academic community failed to speak truth to power.

A.  The Korean War

On June 26, 1950, President Truman announced to the American public that the UN Security Council had ordered North Korea to withdrew its forces from South Korea and return to a position North of the 38th parallel. When North Korea failed to comply, Truman ordered U.S. air and sea forces to give support to South Korea. He made a commitment that the United States “will continue to uphold the rule of law.”

In fact, Truman violated the U.S. Constitution, a congressional statute, the UN Charter, and his own public promises. To appreciate the scope of those violations, consider congressional debate in 1945. Senators were considering language in the Charter that called for member states to enter into “special agreements” when sending armed forces to the UN for collective military action. In order to encourage the Senate to pass the Charter, Truman wired this note from Potsdam: “When any such agreement or agreements are negotiated it will be my purpose to ask the Congress for appropriate legislation to approve them.”  Thus, Truman pledged to come to Congress for statutory authority rather than attempt to act unilaterally.

As ratified by the Senate, Article 41 of the UN Charter provided that all members shall make available to the Security Council, in accordance with special agreements, armed forces and other assistance. Each nation would ratify those agreements “in accordance with their respective constitutional processes.” The meaning of U.S. constitutional processes is defined by Section 6 of the UN Participation Act of 1945, which states with singular clarity that the special agreements “shall be subject to the approval of the Congress by appropriate Act or joint resolution.”

Yet five years later Truman ordered U.S. troops to Korea without coming Congress for authority, either in advance of the crisis or afterward. How could he evade the explicit language of the UN Participation Act? The short answer: He did not enter into a “special agreement.” Having avoided congressional policy through this lawyerly tactic, he nonetheless claimed to be acting under UN authority. His Secretary of State, Dean Acheson, stated that Truman had done his “utmost to uphold the sanctity of the Charter of the United States and the rule of law,” and that the administration was in “conformity with the resolutions of the Security Council of June 25 and 27, giving air and sea support to the troops of the Korean government.”  Yet Truman committed U.S. forces before the Council called for military action. In his memoirs, Acheson admitted that “some American action, said to be in support of the resolution of June 27, was in fact ordered, and possibly taken, prior to the resolution.”  Truman had done nothing to uphold the sanctity of the UN Charter or the rule of law.

Truman tried to minimize the violation by saying the nation was not actually at war. Asked at a news conference whether the country was at war, he replied: “We are not at war.”  Asked whether it would be more correct to call the conflict “a police action under the United Nations,” he agreed: “That is exactly what it amounts to.”  It was well known that the UN exercised no real authority over the conduct of the war. Other than token support from a few nations, it was an American war when measured by troops, money, casualties, and combat deaths. The Security Council requested that the United States designate the commander of the forces and authorized the “unified command at its discretion to use the United Nations flag.”  Truman designated General Douglas MacArthur to serve as commander of this co-called unified command.  Federal and state courts has no difficulty in concluding that the hostilities in Korea amounted to war.  During Senate hearings in June 1951, Acheson finally conceded the obvious by admitting “in the usual sense of the word there is a war.”

B.  Kosovo and Iraq II

Korea was the first unconstitutional presidential war because it entirely skirted Congress. Subsequent wars, as in Vietnam and the first Iraq War in 1991, were supported by congressional statutes. The second unconstitutional presidential war was Kosovo, in 1999, when President Bill Clinton went to war not on the basis of a Security Council resolution (which he could not get) but with the backing of NATO countries. Think of it. Presidents are not required to come to Congress for authority. Instead, they rely on international (UN) or regional bodies (NATO) for “authority.” If NATO, Presidents seek support not from Congress but from Italy, Belgium, and other countries.

To accept the constitutionality of this process, one has to argue that the President and the Senate, acting through the treaty process to create the UN and NATO, could eliminate the war prerogatives of the House of Representatives.

The third unconstitutional presidential war is the current war against Iraq. Although President Bush received statutory authority from Congress in October 2002, Congress did not satisfy its constitutional obligation by deciding on war. Rather, it passed legislation that allowed *the President* to make that decision, transferring a primary constitutional duty to the executive branch. Of course that is precisely what the framers fought against.

**III.  Academic Cheerleaders**

From the Korean War to the present, a number of leading academics have contributed to the growth of presidential war power. This pattern was discussed in a paper by Thomas Cronin, delivered at the 1970 American Political Science Association annual convention. Entitled “The Textbook Presidency and Political Science,” Cronin criticized textbooks for underscoring “inflated and unrealistic interpretations of presidential competence and beneficence.” They inclined toward “exaggerations about past and future presidential performance.” Infatuation with the presidency necessarily diminished the role of Congress, the Constitution, and democratic processes.  The deficiencies Cronin found in general are reflected in the writings of such scholars as Henry Steele Commager, Arthur S. Schlesinger, Jr., and Richard E. Neustadt.

A.  Commager and Schlesinger

Historians, rushing to support Truman’s intervention in Korea, failed to give proper attention to constitutional principles. Henry Steele Commager wrote an article in the *New York Times* on January 14, 1951, rebuking those who criticized Truman’s initiatives in Korea. Their objections, he said, “have no support in law or in history.”  Yet Commager’s own research into law and history was shallow and misinformed. Consider this passage:

. . . [I]t is an elementary fact that must never be lost sight of that treaties are laws and carry with them the same obligation as laws. When the Congress passed the United Nations Participation Act it made the obligations of the Charter of the United Nations law, binding on the President. When the Senate ratified the North Atlantic Treaty it made the obligations of that treaty law, binding on the President.

Both of these famous documents require action by the United States which must, in the nature of the case, be left to a large extent to the discretion of the Executive.

Commager ignored the statutory text and legislative history of the UN Participation Act (requiring prior approval by Congress) and failed to address the constitutional violations that would be raised if the President and the Senate, acting through the treaty process, attempted to strip from the House of Representatives its prerogatives over war.

Arthur S. Schlesinger, Jr. was also an early defender of Truman’s action in Korea. In a letter to the *New York Times* on January 9, 1951, he disputed the statement by Senator Robert Taft that Truman “had no authority whatever to commit American troops to Korea without consulting Congress and without Congressional approval,” and that by sending troops to Korea he “simply usurped authority, in violation of the laws and the Constitution.” Schlesinger dismissed Taft’s statements as “demonstrably irresponsible.” Harking back to Jefferson’s use of ships to repel the Barbary pirates, Schlesinger claimed that American Presidents “have repeatedly committed American armed forces abroad without prior Congressional consultation or approval.”

Jefferson’s actions were not a precedent for Truman’s. Jefferson took limited defensive actions in the Mediterranean and came to Congress to seek authority for anything that went “beyond the line of defense.” Congress enacted ten statutes authorizing military action by Presidents Jefferson and Madison in the Barbary wars. In sharp contrast, Truman arrogated to himself the full warmaking power, both defensive and offensive, and never came to Congress for authority. Jefferson respected congressional prerogatives and constitutional limits. Truman ignored both. As for the examples in which Presidents “repeatedly committed American armed forces abroad without prior Congressional consultation or approval,” not a single precedent was of the magnitude to justify or legalize what Truman did in Korea.

Years later, at the height of the Vietnam War and Watergate, Schlesinger expressed regret for calling Taft’s statement “demonstrably irresponsible.” He explained that he had responded with “a flourish of historical documentation and, alas, hyperbole.”  The problem was not merely flourishes and hyperbole. Schlesinger decided to remove his professional and academic hat and don a partisan one to defend a President he admired and supported.

In the 1960s, with the nation mired in a bitter war in Vietnam, Commager and Schlesinger both publicly apologized for their earlier unreserved endorsements of presidential war power. By 1966 Schlesinger was counseling that “something must be done to assure the Congress a more authoritative and continuing voice in fundamental decisions in foreign policy.”Commager told the Senate Foreign Relations Committee in 1967 that there should be a reconsideration of executive-legislative relations in the conduct of foreign relations.  When he returned to the committee in 1971, he testified that “it is very dangerous to allow the President to, in effect, commit us to a war from which we cannot withdraw, because the warmaking power is lodged and was intended to be lodged in the Congress.”

In 1973, Schlesinger spoke about the domestic and international pressures that helped concentrate power in the presidency: “It must be said that historians and political scienties, this writer among them, contributed to the presidential mystique.”  Reconsideration is always valuable, but independent scholarly checks are needed at the time of constitutional violations, not two decades later. Moreover, Schlesinger and Commager seemed to awake to presidential abuse because they disliked the occupant in the Oval Office: Lyndon Johnson or Richard Nixon. Scholars must weigh in against executive transgressions when they occur and sound the alarm against Presidents they like.

B.  Richard Neustadt

Probably no presidential study has had the impact of Richard Neustadt’s *Presidential Power* (1960). Over the past four decades, students read this book to learn how Presidents gain and exercise political power. Neustadt begins with a modest theme. Presidential power “is the power to persuade.”  He also recognized that Presidents need to use whatever coercion is necessary. Persuasive power “amounts to more than charm or reasoned argument. . . . For the men he would induce to do what he wants done on their own responsibility will need or fear some acts by him on his responsibility.”  Still, it all sounds quite civilized and moderate. The formal powers of Congress and the President “are so intertwined that neither will accomplish very much, for very long, without the acquiescence of the other.”In a phrase that seems consistent with the framers’ reliance on checks and balances, power “is a give-and-take.”  Neustadt is famous for saying that the constitutional convention did not create a government of separated powers: “Rather, it created a government of separated institutions *sharing* powers.”

These introductory chapters offer a reassuring and soft glow of mutual accommodation and shared power. As the book moves along, a different side emerges. Neustadt clearly advises Presidents to take power, not give it or share it. Power is something to be acquired and concentrated in the presidency, and the power is for *personal*––not constitutional––use. Neustadt’s model President is Franklin D. Roosevelt, not Dwight D. Eisenhower: “the politics of self-aggrandizement as Roosevelt practiced it affronted Eisenhower’s sense of personal propriety.”  Was it just Eisenhower’s “personal propriety” or his understanding of what the Constitution allowed, both in terms of separation of powers and federalism? To Neustadt, it didn’t seem to matter. FDR had every right to seek power for his own use and enjoyment: “Roosevelt was a politician seeking personal power; Eisenhower was a hero seeking national unity.”  Because Eisenhower cared more for national unity than personal power, Neustadt wrote him off as an “amateur.”

Neustadt covers only part of Truman’s problems in Korea. Truman gave General Douglas MacArthur too much latitude and had to fire him. Truman’s effort to seize steel mills to prosecute the war in Korea was struck down by the Supreme Court. Whether Truman had constitutional or legal *authority* to go to war against North Korea was not addressed by Neustadt, nor did he explore at all Truman’s inflated definitions of executive emergency power that the judiciary and the country found offensive.  Issues of that nature did not attract Neustadt’s attention. Certainly Truman never used the power of “persuasion” to convince Congress and the public for the war. On that score there was no talk of “shared power.”

Neustadt appeared to support the military intervention in Korea, on both legal and political grounds. It was Truman’s job “to make decisions and to take initiatives.” Among Truman’s private values, “decisiveness was high upon his list.” His image of the President was “man-in-charge.”  Applying that attitude to the Korean War, there is no need to persuade others or enter into a give-and-take. Truman satisfied his high calling if he made a decision and took the initiative. Whether he had constitutional authority to act was not examined by Neustadt. Perhaps dwelling on constitutional issues smacked too much of the public law model developed by Corwin.

At least in the area of the war power, Neustadt’s book does not encourage or advise a President to persuade or seek interbranch accommodations and compromises. It is written for “a man who seeks to maximize his power.”  It would fit the needs of an American President, Winston Churchill, Adolf Hitler, Benito Mussolini, or Joseph Stalin. Indeed, any executive who limited his power by worrying about constitutional or statutory limits would appear weak. In maximizing power, a prime ingredient is confidence: “Such confidence requires that his image of himself in office justify an unremitting search for personal power.”  An interesting choice of words: not institutional power or constitutional power but personal power.

Neustadt again: “The more determinedly a President seeks power, the more he will be likely to bring vigor to his clerkship. As he does so he contributes to the energy of government.”  Success is measured by action, vigor, decisiveness, initiative, energy, and personal power. Absent from this analysis are constitutional checks, sources of authority, or the ends to which power is put. Throughout the book, Neustadt makes only two brief (and inconsequential) references to the Constitution, neither of which merit an entry in the index.

Only in the Afterword, published in 1964, does Neustadt show his hand on what he thinks the Constitution requires. In discussing the Cuban Missile Crisis of 1962 and the “substantial nuclear capability” of both the Soviet Union and the United States, he sees “profound” consequences for the presidency.  The Constitution, he says, originally contemplated that decisions of military force “should emanate from President *and* Congress,”but the prospect of nuclear war had worked a fundamental change: “when it comes to action risking war, technology has modified the Constitution: the President perforce becomes the only such man in the system capable of exercising judgment under the extraordinary limits now imposed by secrecy, complexity, and time.”

Persuasion, interbranch accommodation, give-and-take––given prominence in the 1960 edition––were now wholly jettisoned in the case of nuclear war. In their place is this striking formulation: “The President remains our system’s Great Initiator. When what we once called ‘war’ impends, he now becomes our system’s Final Arbiter.”  Neustadt’s reformulation may appear to turn on nuclear war, but for the conventional war against Korea he also supported Truman as the Great Initiator and Final Arbiter.

In the year of Neustadt’s paperback edition, President Lyndon B. Johnson would ask for and receive from Congress the Tonkin Gulf Resolution, grounded on a false report of a North Vietnamese “unprovoked” attack on U.S. ships.  Having ignored the harm done by the Korean War to Truman, the Democratic Party, and the nation, Neustadt was in no position to anticipate the damage the Vietnam War would inflict on constitutional government. His model of the presidency did not make room for such considerations.

When Neustadt’s book was reissued in 1990 under a different title, in the preface he wrote: “To share is to limit; that is the heart of the matter, and everything this book explores stems from it.”  The 1960 edition and the 1964 Afterword had little to do with sharing the war power. Neustadt centered that power in the President, not only for nuclear war but for the Korean War. He was stung by the suggestion that the earlier edition served as a primer for presidential abuse during Watergate.  He explained that he assumed that White House aides would be “experienced in government, to some significant degree, as I had been when I was there in Truman’s second term,” and that they would have a “feel” for Congress and understand “what it means to work inside a Presidency sharing powers with the Congress, courts, and states, where no one has the ‘final’ word, except, sometimes the voters.”  With respect to Korea, Truman did not share powers with Congress and it was he––and no one else––who assumed the final word on going to war.

The first part of this paper explains the rise of presidential wars. I turn now to the contemporary stage: a U.S. hegemony advocated by neoconservatives. I do not place the responsibility solely on neocons. Their doctrines draw heavily from earlier liberal writings, including those of Commager, Schlesinger, and Neustadt.

**IV.  Doctrines for American Hegemony**

Recent books warn about the rise of the “American Empire.”  The word empire implies a vast land holding, such as the Roman, British, and French Empires. Substituting “hegemony” has advantages because it simply means a system where one country has preponderant power over other territories. No actual occupation or administration is needed, other than the U.S. military bases that are scattered around the globe.

The U.S. occupation of Iraq in 2003 appear to be a by-product of the 9/11 terrorist attacks, but the plan for extending American military power to the Middle East dates back many decades. The push for an aggressive foreign policy came from the neoconservatives, who took a hard military line against Communism and continued to press that agenda after the collapse of the Soviet Union.

Following the U.S. victory in Iraq in 1991, no one in a senior position in the Bush I administration recommended going North to Baghdad to occupy the country. President Bush, Defense Secretary Dick Cheney, National Security Adviser Brent Scowcroft, and General Colin Powell counseled against such a move.  Yet within a year the neocons, strategically located in the White House and executive departments, began drafting ambitious plans for military action against Iraq and converting its government to a liberal democracy. They owe a special debt to President Truman and the political philosopher Leo Strauss.

A.  The Truman Doctrine

The neocons look to the Truman years to find justifications for military force against Communism then and terrorism now. They see parallels between the period immediately after World War II and the current war against Iraq. In both cases Truman and Bush were committed to the belief in American exceptionalism and the need to spread democracy to other countries. They point to Truman’s address in 1947, where he insisted on the “frank recognition that totalitarian regimes imposed on free people, by direct or indirect aggression, undermine the foundations of international peace and hence the security of the United States.”  Just as Truman pledged to confront Soviet expansionism and promote freedom, so does Bush stand opposed to Islamic fundamentalism in the name of freedom.

Militant, global anti-Communism became a characteristic of the postwar intellectual Right,

but the same can be said of the postwar intellectual Left. Schlesinger’s *The Vital Center*, published in 1949, took a hard line against Communism and Stalinism. He voiced “an unconditional rejection of totalitarianism” and terrorism. In his view “the totalitarian left and the totalitarian right meet at last on the murky grounds of tyranny and terror.”  Neocons would applaud his sentiments: “Our own objective is clear. We must defend and strengthen free society. . . . War is the next most certain road.”  Like the neocons, Schlesinger admired Winston Churchill because he had the instincts “of an imperial aristocrat” and “was not afraid to fight.”  The 1949 book promotes a manly, martial spirit. Schlesinger called for a “new virility” and praised rulers with “martial values: daring, self-sacrifice, energy, strength, ‘the ferocity mixed with gentleness.’”  Democracy would founder, he warned, unless it could produce “the large resolute breed of men capable of the climactic effort.”  Neocons would disagree only with Schlesinger’s critique of capitalism and the business class.

The conservative community also endorsed military force against the Soviet Union, even the use of nuclear weapons. During the Eisenhower years, the Right popularized the view “Better Dead than Red,” preferring an exchange of ICBMs to living under Communism. Many of those associated with this attitude had earlier worked with Communists and Trotskyist groups, turning now with a vengeance toward former comrades. George Nash, in his intellectual history of the conservative movement, described the conservative understanding of foreign affairs “as a titanic conflict of ideologies, religions, and civilizations . . . decisively shaped by the former Communists and Trotskyists who dominated the *National Review* circle in its early years.” He singled out these prominent names: Frank Meyers, James Burnham, Whittaker Chambers, William Schlamm, William Henry Chamberlin, Willmoore Kendall, Eugene Lyons, Freda Utley, and Max Eastman.  Conservatives in the 1950s and 1960s learned how to wield military rhetoric, advocated the moral superiority of the West and the United States, and insisted on military superiority over military sufficiency, liberation over containment.  A similar journey would take other intellectuals from Communism to neoconservatism.

B.  The Straussians

Leo Strauss left Germany in 1932, pursuing research in France and England before settling in the United States in 1938. For several decades he taught at the New School for Social Research and the University of Chicago. Some of his core ideas have appeal to both liberals and conservatives. He believed that fundamental political rights come from nature, not convention. He took literally the language that inspired the Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.” Those rights are grounded in nature, not in governmental acts that can be granted and later taken away.

Strauss concentrated on political philosophy, not foreign policy or national security, but his writings reveal a passionate stand against totalitarianism, opposition to relativism and value-free scholarship, and support for liberal democracy.  The latter position is shaky. First is the problem with the word “liberal,” which is used so differently in the United States and Europe. Liberal in the European sense can mean conservative in the United States. Also, even supporters of Strauss concede that he found problems with both liberalism and democracy.  Strong elitist themes appear in his work and he faults liberalism for producing relativism, an erosion of religious faith, and nihilism. He associated liberal democracy with the weak Weimar Republic that preceded Nazism.

Strauss feared that reason would undermine religion and faith. It has been said that he did not disagree with Karl Marx that religion is the opium of the people; he differed only in believing that the people need the opium.  Strauss viewed the Holocaust as a “logical outcome of the ascendancy of Enlightenment rationalism, nihilism, liberalism, and secularism.”  He opposed much of modernism and sought guidance from earlier times. In similar fashion, Moslem fundamentalists resist the influence of the West and look to more traditional values. Generalizations about Straussians are hazardous. They split into different camps and frequently war with each other.

Students of Leo Strauss became professors of students now actively involved in the neoconservative movement. They supported the use of military force and confrontation against the Soviet Union and adopt the same posture against Islamist fundamentalism. Prominent neocons in the defense establishment include Paul Wolfowitz, Douglas Feith, Abram Shulsky, I. Lewis (Scooter) Libby, William Kristol, Carnes Lord, Gary Schmitt, Richard Perle, Elliott Abrams, John Bolton, and Zalmay Khalilzad.

Straussians and neocons object to modernism’s “turning away from the traditional understanding of truth as an independently existing, accessible and knowable quality.”  From this vantage point they stake out a strong moral position on good and evil, whether evil takes the form of a political philosopher, Communism, or Saddam Hussein. Strauss denounced Machiavelli as the “teacher of evil.”  Strauss’s writing style has been described as combative, rancorous, truculent, belligerent, and aggressive.  His critiques of others are “sharp, cutting, and often rebuking.”  In their ideological battles with domestic and international adversaries, neoconservatives “have not infrequently viewed their enemies as embodiments of evil who must be destroyed, rather than as opponents to be debated or persuaded.”  In these public debates, neoconservatives “seemed less interested in promoting dialogue with opponents than with demolishing them.”

The word “evil” is not used casually. It evokes strong emotions in Straussians and neocons. It was not happenstance that President Ronald Reagan called the Soviet Union “the evil empire,” and it was a short step from there to President Bush II referring to Iraq, Iran, and North Korea as the “axis of evil.” Allan Bloom, a Straussian and author of the best-selling *The Closing of the American Mind* (1987), inveighed against moral relativism and the consequent loss of the search for truth. Students, he mourned, had “no idea of evil.”  Consistent with this theme is a recent book by David Frum and Richard Perle: *An End to Evil: How to Win the War on Terror* (2004).

It must be comforting to know that evil is on one side and you are on the other. Fighting evil, as you see it, justifies whatever steps are needed to reach a noble end. If military intervention results in the deaths of innocent civilians and political turmoil in an occupied country, that is tragic but part of a necessary struggle. Of course this frame of mind, resolute spirit, and moral certitude are held with equal intensity by neocons and Islamic fundamentalists. Both sides are dedicated to fighting evil.

C.  The Neoconservatives

A group of liberal, Democratic intellectuals coalesced around the theme of anti-Communism in the late 1940s, willing to take the fight to totalitarian regimes. During the 1960s they broke with liberalism, student protests, the antiwar movement, New Left radicalism, and what they saw as a form of isolationism following the bitter war in Vietnam. Democratic Party reforms, McGovern’s defeat in 1972, the “blame America” crowd, and Carter’s presidency deepened the alienation. By 1981, many of these intellectuals found a home in the Reagan administration. Over time they acquired and eventually adjusted to their new label, neoconservative.  In the 1980s, they were successful in having President Reagan promote Wilsonian principles as part of an effort to spread democracy around the globe.

The strategy of neocons at that time depended on political pressure and financial assistance, not military force.  Joshua Muravchik’s book, *Exporting Democracy* (1992), is written within a framework of democratic realism, which includes a willingness to advance U.S. interests by war. However, the techniques he advanced were ideological, not military: overseas radio broadcasting, rhetorical encouragement, emergency relief, economic credits, debt relief, investment, internships in the West, student exchanges, and sending U.S. experts abroad to counsel on fledgling civil and governmental bodies and businesses.

A recurrent theme in neoconservative writings is the endangered presidency. Liberals, having encouraged and supported “the imperial presidency,” turned against it because of Vietnam and Watergate. To the neocons, this attack on presidential power caused damage to “the main institutional capability the United States possesses for conducting an overt fight against the spread of Communist power in the world.”  Neocons frequently deplore any loss of presidential power. They criticized President Reagan for failing to protect his institutional powers, leaving the office “weaker than he found it.”  Neocons show no comparable concern for protecting the powers of Congress or the system of checks and balances. Liberals, after their initial attack on the presidency, largely champion executive power and also show little interest in congressional prerogatives or checks and balances.

In recent decades, when conservatives express constitutional concerns it is largely to object to legal constraints placed on presidential power. They write about congressional encroachments in the field of foreign affairs, covert actions, war powers, and the veto power. Included among these critics of congressional interference are Straussians and neocons.  Scholars with a Straussian orientation pay little attention to Congress, and what is said is usually derogatory.  A refreshing exception is the work of Joseph Bessette.

It wasn’t always this way. From the 1940s to the late 1960s, conservatives were more respectful of Congress and understood its important role in preserving constitutional government. In his classic *The Road to Serfdom* (1944), Friedrich A. Hayek worried about the transfer of legislative power to “experts” in the executive branch, concluding that this would undermine democracy and lead to arbitrary power and dictatorship.  Although conservatives readily adopted Hayek, he declined membership.  Willmoore Kendall, quite likely one of a kind in the conservative community, recognized the importance of a strong and independent Congress.

D.  Irving Kristol

Irving Kristol has been a major figure in articulating the values of the neoconservative community. His essay in 1993 singles out three pillars of modern conservatism: religion, nationalism, and economic growth.  The third pillar is readily understood: belief in a market economy, respect for property rights, low taxes, and limited federal intervention. He emphasizes religion because secular rationalism “has been unable to produce a compelling, self-justifying moral code.”  There is much truth in that, but the same can be said of traditional religion. Both secularism and religion have contributed to immoral acts.

Kristol adds that philosophy “can analyze moral codes in interesting ways, but it cannot create them.”  An intriguing observation, because Leo Strauss and his followers rely extensively on Plato, Aristotle, and other classical philosophers. They typically draw moral codes from those writings, not the Bible. Of the three pillars, Kristol considers religion as “easily the most important because it is the only power that, in the longer term, can shape people’s characters and regulate their motivation.”  American conservatives are comfortable with that formulation. So are Islamic fundamentalists, including Osama bin Laden.

Kristol does not equate moral codes with revelation.  They arise, he says, from tradition and community values: “Moral codes evolve from the moral experience of communities, and can claim authority over behavior only to the degree that individuals are reared to look respectfully, even reverentially, on the moral traditions of their forefathers.”  His explanation does not depend on scripture or revealed truth. For that reason, secular rationalism––at least over time––is a credible alternative to traditional religion.

What of the second pillar, nationalism? In 1983, Kristol said that neoconservatism “is not merely patriotic––that goes without saying––but also nationalist.”  He regarded nationalism as “probably the most powerful of political emotions” and warned that the extreme Left, when it is in power, “immediately attaches nationalism to its ideological aspirations.”  Yet his essay in 1993 included nationalism as the second pillar of modern conservatism. Kristol does not explain in any depth why he selects nationalism as a primary value. It may reflect an effort to separate American conservatives from American Communists who took direction from the Soviet Union. Nationalism would also exclude the need to formulate and execute national security through international institutions, such as the UN. Neocons clearly find that anathema, and yet nationalism is also a shorthand description of “paleoconservatives,” who place the emphasis on U.S. interests even to the extent of courting isolationism.  Neocons, by contrast, are Wilsonian internationalists.

In his later writings, Kristol seems less concerned that nationalism can inspire a darker ideology that promotes a superior race. The latter meaning is advanced by Michael Ledeen in the *Weekly Standard* in 1996: “our foreign policy must be ideological––must be designed to advance freedom. . . . In these days of multicultural relativism, it is unfashionable to state openly what the rest of the world takes for granted: the superiority of American civilization.”

That attitude helped spur and justify the second Iraq War and it colors the National Security Strategy issued by the Bush administration in 2002. The neocons broke with McGovern’s followers because they had “qualities generally associated with extremism: they were ideological, moralistic, and evangelistic.”  Three decades later, much of the neoconservative movement has morphed into what it once despised. Neocons once spoke disparagingly of the “French-Continental Enlightenment” emphasis on utopian expectations, statist implications, preoccupation with planning, and “grandious ambitions” of transforming political society,associating those values with the Left. Those same values are now unabashedly embraced by neocons.

**V.  Military Strategies**

In 1992, toward the end of the Bush I administration, Wolfowitz, Libby, and Khalilzad teamed up to produce a Pentagon document called the Defense Planning Guidance. A draft copy, leaked to the press, envisioned the United States as the globe’s only superpower, capable of using its military might to advance and protect U.S. interests. After running into strong criticism, the draft was rewritten and toned down.  This strong military edge, set aside in 1992, would reappear in subsequent documents prepared by neocons.

A.  American Exceptionalism

No one can fault the neocons for hiding their political agenda. It is put front and center. Writing in 1996, William Kristol and Robert Kagan advocated a “neo-Reaganite” foreign policy. That meant hefty increases in military spending, “greater moral clarity,” and a need to champion “American exceptionalism.”  Here is the key phrase used to justify America’s preeminent military role in the post-Cold War world: “Benevolent global hegemony.” For those who considered such language as “either hubristic or morally suspect,” Kristol and Kagan explain that a hegemon “is nothing more or less than a leader with preponderant influence and authority over all others in its domain.” When Russia and China denounce U.S. “hegemonism,” neocons accept this critique “as a compliment and guide to action.”  To those who object to the United States glorifying the notion of dominance, Kristol and Lawrence Kaplan reply: “Well, what is wrong with dominance, in the service of sound principles and high ideals?”

B.  The Connection With Israel

A number of neocons have been strong supporters of the Likud Party in Israel. Perle, Feith, David Wurmser and several others wrote “A Clean Break,” a 1996 report for a Jerusalem-based think tank. It recommended striking Syrian military targets in Lebanon and in Syria, removing Saddam Hussein from power, and helping the Hashemites in Jordan exercise control over Iraq.  Two years later Congress passed the Iraq Liberation Act, supporting efforts to remove Saddam Hussein and replace him with a democratic government. However, the law explicitly states that none of its provisions authorize the use of American troops to fulfill the purposes of the statute. It merely authorized up to $97 million in military supplies to Iraqi opposition groups as part of the transition to democracy in Iraq.

It is too much to draw a straight line between the second Iraq War and the Jewish intellectuals who are so prominent in the neoconservative community. Israel has many defenders, including the Religious Right in America since the 1970s. Christian evangelists believe that the Second Coming will occur in Israel and that it will be “preceded by the conversion of the Jews to Christianity; thus, both the Jews and Israel need to be saved in order to fulfill their dual roles in Christian eschatology.”  Jewish Orthodox settlers await the Messiah to find redemption; Muslim Sheikhs cite verses in the Koran that foretell of Israel’s destruction; American evangelical ministers “insist on their deep love for Israel” while awaiting apocalyptic battles that will fill dry river beds with blood.

C.  Reasons for Regime Change

Neocons offered many reasons to overthrow Saddam Hussein. Writing in 1999, David Wurmser devoted much of his analysis to Hussein’s “pernicious, extortionist character” and his “brutal use” of force against Iraqi citizens and neighboring countries.  Citing Hussein’s bloody record is a convenient way to build public support for military action, but Wurmser suggests that the U.S. interest in Iraq is based on certain fundamentals and realities that have nothing to do with whether an immoral tyrant is in power:

A nation of 22 million, Iraq occupies some of the most strategically blessed and resource-laden territory of the Middle East. It is a key transportation route, and it is rich in both geographic endowments and human talent. Its location on pathways between Asia and Europe, Africa and Asia, and Europe and Africa makes it an ideal route for armies, pipelines, and trade from both the eastern Mediterranean and Asia Minor to the Persian Gulf. Iraq also has large, proven oil reserves, water, and other important resources.

In a book edited in 2000, Kristol and Kagan promote an ambitious and bellicose agenda, as do the authors who contributed essays (including Abrams, Perle and Wolfowitz). Regarding Iraq, Kristol and Kagan object that Bush I “failed to see that mission through to its proper conclusion: the removal of Saddam from power in Baghdad.”  U.S. troops should have been kept in Iraq “long enough to ensure that a friendlier regime took root.”  A section on “regime change” encourages “a broad strategy of promoting liberal democratic governance throughout the world.”  Military action against Iraq would be one step.

In September 2000, the Project for the New American Century issued a report entitled “Rebuilding America’s Defenses: Strategy, Forces and Resources For a New Century.” The Project, established in 1997, is chaired by William Kristol. The back page, identifying 27 participants, includes the names of Wolfowitz, Libby, and Shulsky. The report explains that the Project builds “upon the defense strategy outlined by the Cheney Defense Department in the waning days of the Bush Administration.” Specifically cited is the 1992 Defense Policy Guidance that “provided a blueprint for maintaining U.S. preeminence, precluding the rise of a great power rival, and shaping the international security order in line with American principles and interests.”

D.  The National Security Strategy of 2002

Much of the neocon framework appears in an extraordinary document released by the Bush administration in September 2002, entitled “The National Security Strategy of the United States of America.” It incorporates the doctrines of preemption, military superiority, and U.S. preeminence in world affairs. More significant, however, is the tone of the report. It explains that the United States embodies certain intrinsic truths and that it has a moral and political obligation to spread those truths to other countries, using military force when necessary.

The introductory statement by President Bush begins by identifying “a single sustainable model for national success: freedom, democracy, and free enterprise.” That model does not merely apply to the United States and its allies. It is a model for the entire world. Thus, the “values of freedom are right and true for every person, in every society––and the duty of protecting these values against their enemies is the common calling of freedom-loving people across the globe and across the ages.”  This is a call both to duty and to action.

According to the Bush statement, the United States will “not use our strength to press for unilateral advantage.” It has already done so in Iraq and there is every reason to expect military power to be applied elsewhere. He says that America will create a balance of power and conditions “in which all nations and all societies can choose for themselves the rewards and challenges of political and economic liberty.” Yet this choice is far from voluntary. In fighting “terrorists and tyrants,” the United States “will hold to account nations that are compromised by terror, including those who harbor terrorists––because the allies of terror are the enemies of civilization.” The only path to peace and security, Bush warns, “is the path of action.”

Bush ends his statement by calling freedom “the non-negotiable demand of human dignity; the birthright of every person––in every civilization.” In what could be read as an American jihad, he states that “humanity holds in its hands the opportunity to further freedom’s triumph” over war, terror, tyrants, poverty, and disease. “The United States welcomes our responsibility to lead in this great mission.”

The emphasis on freedom in this document reappears in Bush’s Inaugural Address on January 20, 2005. The clear mission is for America to spread freedom across the globe. To hear Bush and other conservatives gather around this theme strikes a discordant note. For conservatives over the years, freedom has not the highest value or even of high priority. It has been distinctly subordinate to such values as virtue and political order.

E.  The Commitment to Nation-Building

The neocons who championed the second Iraq War displayed little apprehension about the use of U.S. military power. America’s commitment of armed forces abroad is unlikely to be abusive, they argue, because “American foreign policy is infused with an unusually high degree of morality.”  What if it isn’t? What happens when a policy intended to be benevolent turns destructive or even evil? Why do conservatives, traditionally distrustful of human nature and, in the past, supportive of limited government and the need for checks and balances, find such a comfort level with unwavering dependence on the national government, military force, nation-building, and presidential power? The conservative hat fits awkwardly on the neocons.

Initially, neoconservatives found their foothold by checking the liberal agenda, ranging from the domestic initiatives associated with the Great Society to the liberal opposition to military force after Vietnam. This neocon posture gave way, in time, to an “eschatological faith in America’s *mission civilisatrice*, to be fulfilled by military means.”  Neocons began to object to what they called the “feminization” of politics and urged, in its stead, a national security strategy fortified by “manly qualities.”

Neocons are quick to criticize “realists” who doubted that U.S. military force could bring democracy to Iraq. Two neocons, writing before Bush went to war against Iraq, thought that after the defeat of Saddam Hussein and the occupation of the country, “installing a decent and democratic government in Baghdad should be a manageable task for the United States.”  Those words, by Lawrence Kaplan and William Kristol, were written a few months before U.S. troops moved against Iraq. What accounts for this carefree confidence, this blissful unawareness of the coming bloody insurgency? Why weren’t neocons more “realistic” and better prepared for guerrilla warfare? Realism alone can be blind and unimaginative; idealism without realism is hare-brained.

Francis Fukuyama, part of the neocon community, recently criticized his colleagues for indiscriminately supporting the use of military force abroad. He notes that neocons in the past warned about “the dangers of ambitious social engineering, and how social planners could never control behavior or deal with unanticipated consequences.” He observes that even more modest goals, such as eliminating poverty in the United States or raising test scores in Washington, D.C. have encountered a multitude of intractable problems. With those experiences in mind, he wondered how neocons in backing the Iraq War could “expect to bring democracy to a part of the world that has stubbornly resisted it and is virulently anti-American to boot.”

Fukuyama has examined the record of U.S. efforts to build or strengthen nations. For the successful examples, as with postwar Germany and Japan, the United States was willing to be an occupying power and remain for years. The United States worked with two countries that already possessed strong bureaucratic structures and traditions. The pattern of U.S. intervention elsewhere, including Cuba, the Philippines, Haiti, the Dominican Republic, Mexico, Panama, Nicaragua, South Korea, and South Vietnam, should give one pause.  The experience with Germany and Japan fails for another reason. The German and Japanese military forces were crushed by the allies and were willing to accept occupation. No such defeat befell the Iraqis.

Exactly why the Bush administration went to war against Iraq is anybody’s guess. A half dozen or more “explanations” are available. Noah Feldman puts it well by saying that the American invasion “was the product of several disparate, mutually conflicting strands of thought, some benightedly idealistic, others brutally realist, and almost all based on some misunderstanding of the likely consequences of the invasion in Iraq itself.”  Those who supported the removal of Saddam Hussein wondered if the Bush administration could be trusted to carry out the task in an effective manner.

**VI.  Executive Competence**

Distrust of executive power has a constitutional base: the inclination of Presidents to use military power for personal or partisan motivations, not for the national interest. Distrust should also extend to the limited competence within the executive branch to plan and execute a successful war. Major strategic and tactical errors accompanied the Korean and Vietnam Wars. Miscalculations, errors of intelligence, and false statements have haunted the second war against Iraq. The mistakes came not from the military but from civilian leadership, especially at the level of the White House and within the Pentagon.

A.  Formulating a Successful Plan

Whatever skills and talents are demanded of military officers in time of war, once the President obtains authority from Congress for offensive operations it is the President’s duty to clarify overall goals. He must crystallize the objectives. The President––not military commanders––has the responsibility for shaping the key decisions about military strategy. Under the U.S. constitutional system of civilian supremacy, military leaders carry out presidential policy. It is the President’s job to see that the policy is clear and achievable.

John Burke and Fred Greenstein contrasted the leadership styles of Dwight D. Eisenhower and Lyndon B. Johnson on the war in Vietnam. Eisenhower promoted a more open process to examine policy options without being prematurely locked into one. Johnson never clarified the ends and means of what the United States intended to do in Vietnam. He thought that a vigorous commitment of U.S. military power would spell success. Eisenhower knew better. Johnson often intimidated participants in policy debates. Eisenhower did not. The President is the key figure in creating a climate that constantly tests the reality, feasibility, and constitutionality of U.S. national security policy.

B.  Pointers from the Private Sector

In a book intended for business leaders, Larry Bossidy and Ram Charan explain the primary factors that lead to success. Their advice applies quite well to the government. To execute a plan well, it must be based on reality, not fantasy.  “Realism is the heart of execution.”  Repeatedly, the Bush administration relied on Iraqi exiles who predicted that U.S. soldiers would be greeted as liberators, not occupiers. From that assumption came the judgment to have a minimum number of troops to secure the country. Based on an expectation that was misguided and misinformed, the Bush plan for war invited failure.

Bossidy and Charan explain how leaders discover reality: “You need a robust dialogue to surface the realities of the business.”  Leaders “are actively curious, and encourage debate to bring up opposite views.”  In formulating a plan, there must be openness and candor. A robust dialogue “starts when people go in with open minds.”  When participants speak candidly, “they express their real opinions, not those that will please the power players or maintain harmony.”  To develop a realistic plan, the emphasis must be on “truth over harmony.”  A vigorous dialogue “brings out reality, even when that reality makes people uncomfortable.”  The debate on assumptions “is one of the most critical parts of any operating review.” Leaders cannot set realistic goals “until you’ve debated the assumptions behind them.”  To set realistic goals, a leader must “maintain and sharpen your intellectual honesty.” The essential standard: “See things as they are, not the way you want them to be.”

The public record indicates that President Bush and his top advisers went to war in Iraq with a set of untested, shaky assumptions that were never subjected to rigorous review. When General Eric Shinseki, Army Chief of Staff, told a Senate committee that he saw a need for several hundred thousand U.S. troops in Iraq, his projections were belittled by Pentagon officials. Defense Secretary Donald Rumsfeld announced his retirement 15 months in advance. The public notice was humiliating to Shinseki and sent a chilling message to other military and civilian leaders to keep their opinions to themselves, avoid independent thinking, and join (and stay on) the team.

C.  Presidential Leadership

In early 2003, as the United States prepared for war against Iraq, President Bush asked his senior commanders if they had sufficient forces. Condoleezza Rice, national security adviser, recalled: “I can’t tell you how many times he asked, ‘Do you have everything that you need?’”  During a news conference on April 13, 2004, President Bush was asked if he would have to add more troops in Iraq. He responded: “Well, I––first of all, that’s up to General Abizaid, and he’s clearly indicating that he may want more troops. It’s coming up through the chain of command. If that’s what he wants, that’s what he gets. . . . I’m constantly asking him, does he have what he needs, whether it be in troop strength or in equipment.”

During the planning stage, when Cheney, Wolfowitz and other advisers predicted that Iraqis would treat American troops as liberators, not occupiers, it was Bush’s nondelegable responsibility to ask: “Suppose they do not view us as liberators? Suppose something goes wrong with our military actions, creating much more destruction than we intended? Iraqis might then regard us as occupiers, create an insurgency, and mount a strong guerrilla movement. Terrorists from Saudi Arabia, Egypt, and other countries might enter to lend their support to the insurgents. Do we have sufficient troops to make the country secure, prevent looting and violence, safeguard the existing Iraqi stockpiles of weapons in the country, and create a safe climate that will allow for reconstruction?” Only after those questions are asked can military leaders tell the President how many troops are needed. Presidential questions come first. To be an effective leader, the President cannot wait for military commanders to call him and suggest an increase in troop strength.

The climate within the Bush administration discouraged military commanders from asking for more troops, even if they thought they needed them. The sacking of Shinseki sent a powerful message. Senior military officers acknowledge that they did not put constant pressure on Bush for more troops.  After a while they realized that repeated requests would be futile. Rumsfeld had decided on a minimal force level and no direction had come from the White House to change it. Former Army Secretary Thomas White offered this explanation: “If you grind away at the military guys long enough, they will finally say, ‘Screw it, I’ll do the best I can with what I have.’ The nature of Rumsfeld is that you just get tired of arguing with him.”  The person politically responsible for the success of the Iraq war was not Rumsfeld, however. It was Bush.

The executive branch prepared studies that attempted to predict what would happen if the United States invaded Iraq. The State Department’s Future of Iraq project produced thousands of pages of findings and analysis, consisting of 13 volumes of recommendations and a one-volume summary and overview. Seventeen working groups studied what would be needed to rebuild Iraqi political and economic infrastructures. One report warned that toppling Saddam Hussein might create the opportunity for Iraqis “to engage in acts of killing, plunder and looting.”  The Senate Foreign Relations Committee was advised by a group of experts that the difficulty for the United States would not be the initial military victory but what would come afterward.

In other areas, Bush took the lead instead of waiting for a departmental official to request something. CIA’s lack of “human intelligence” has been known for years. Also obvious is the lack of agency officers proficient in Arabic. Bush could have waited for CIA Director Porter Goss to ask for more clandestine operators and more Arabic speakers. Instead, Bush on November 18, 2004, ordered Goss to increase the number of spies and Arabic speakers by 50 percent. CIA was already heading in that direction but Bush accelerated the process.

VII.  Conclusions

Various administrations, Democratic and Republican, will consciously lie and deceive if they think it is in their interest and can get away with it. Up to now the cost for the executive branch has been minimal. President Johnson seemed to pay a price for the Vietnam War, but it is unclear if that was because of his deceptions or the magnitudes of the casualties and expenditures. Had Vietnam turned out better the public might have forgiven him for the pattern of stealth and dishonesty.

Writing in 1973, David Wise offered this assessment: “If political leaders come to realize, through mass opinion and election returns, that deceiving the public carries greater political risks than telling the truth, the politics of lying may gradually be replaced by the politics of truth.”  Adding the qualifier “may” was prudent. There is little evidence that an administration that lies and deceives will automatically be punished by the public. The White House is too strong and disciplined and too adept at managing the news. Congress is currently weak and lacking in institutional confidence or purpose. The courts are too prone to avoid the merits of a case involving presidential war power by relying on such threshold tests as standing, ripeness, mootness, political questions, and prudential considerations.

Without checks from Congress, the judiciary, the academic community, the media, and the public, Presidents will be free to rule through unsubstantiated claims, vague but unsettling threats, and patently false statements. What we will have, and what we will deserve, is a nation less secure, individual rights more at risk, an executive branch prone to error and abuse, and a public distanced from its own government. Not an attractive picture, but if we allow government to deceive us, why deceive ourselves? John Jay told us long ago that the Executive will engage in wars “not sanctified by justice or the voice and interests of his people.”

\* Senior Specialist in Separation of Powers, Congressional Research Service, the Library of Congress. The views expressed here are personal, not institutional. This paper was presented at a conference on “Is the Presidency Dangerous to Democracy?,” sponsored by the Institute for Leadership Studies of Loyola Marymount University, Los Angeles, Calif., held February 7, 2005. I am indebted to several good friends for comments and suggestions they offered to the initial draft: Peter Benda, Lee Fisher, Robert Goldich, Azza Guertin, Kevin Kosar, James Pfiffner, Richard Pious, Robert Previdi, Mitchel Sollenberger, and Robert Spitzer.

NOTES:

.  After ordering military operations against Iraq, Bush reported to Congress: “Consistent with the War Powers Resolution (Public Law 93-148), I now inform you that pursuant to my authority as Commander in Chief and consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1) and the Authorization for Use of Military Force Against Iraq Resolution of 2002 ( Public Law 107-243), I directed U.S. Armed Forces, operating with other coalition forces, to commence combat operations on March 19, 2003, against Iraq.”  Weekly Compilation of Presidential Documents, vol. 39, p. 348. Thus, he claimed authority wholly under the Constitution and merely acted “consistent with” three statutes.

.  Louis Fisher, Military Tribunals and Presidential Power: American Revolution to the War on Terrorism (Lawrence: University Press of Kansas, 2005).

.  The Papers of Thomas Jefferson (Julian P. Boyd ed., Princeton: Princeton University Press, 1958), vol. 15, p. 397.

.  These quotes and other references to the framers’ intent come from the first chapter of my book, Presidential War Power (Lawrence: University Press of Kansas, 2d ed. 2004).

.  Debates in the Several State Conventions, on the Adoption of the Federal Constitution (Jonathan Elliot, ed., Washington, D.C.: 1836-1845), vol. 2, p. 528.

.  See William Michael Treanor, “Fame, the Founding, and the Power to Declare War,” Cornell Law Review, vol. 82, p. 695 (1997).

.  Benjamin Fletcher Wright, ed., The Federalist (Cambridge, Mass.: Harvard University Press, 1961), p. 101.

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.  Talbot v. Seeman, 5 U.S. 1, 28 (1801).

.  United States v. Smith, 27 Fed. Cas. 1192, 1230 (No. 16,342) (C.C.N.Y. 1806).

.  Fisher, Presidential War Power, pp. 39-42.

.  The Prize Cases, 67 U.S. 635, 668 (1863).

.  Ibid., p. 660 (emphasis in original).

.  Edward S. Corwin, “The President’s Power,” New Republic, January 29, 1951, p. 16.

.  Public Papers of the Presidents, 1950, p. 492.

.  91 Cong. Rec. 8185 (1945).

.  59 Stat. 621, sec. 6 (1945).  For the legislative history of the UN Charter and the UN Participation Act, see Fisher, Presidential War Power, pp. 81-95.

.  Department of State Bulletin, vol. 23, p. 46 (1950).

.  Dean Acheson, Present at the Creation (New York: W. W. Norton, 1969), p. 408.

.  Public Papers of the Presidents, 1950, p. 504.

.  Ibid.

.  Ibid., p. 520.

.  Ibid.

.  Weissman v. Metropolitan Life Ins. Co., 112 F.Supp. 420, 425 (S.D. Cal. 1953); Gagliomella v. Metropolitan Life Ins. Co., 122 F.Supp. 246 (D. Mass. 1954); Carius v. New York Life Insurance Co., 124 F.Supp. 388 (D. Ill. 1954); Western Reserve Life Ins. Co. v. Meadows, 261 S.W.2d 554 (Tex. 1953).

.  “Military Situation in the Far East” (part 3), hearings before the Senate Committees on Armed Services and Foreign Relations, 82d Cong., 1st Sess. (1951), p. 2014.

.  Cronin’s paper was placed in the Congressional Record in 1970 (vol. 116, pp. 34914-28).

.  Henry Steele Commager, “Presidential Power: The Issue Analyzed,” New York Times Magazine, January 14, 1951, p. 11.

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