

U.S. Foreign Policy: The U.S. Foreign Policy Process

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Contents

1	The Constitutional Setting: An Invitation to Struggle	2
2	Evolution of Responsibilities and Sharing of Power	8
2.1	Three Ways to Authorize Use of Force	10
2.2	The War Powers Resolution	14
2.3	Informal Constraints on Presidential Powers	17
3	The Foreign Policy Environment	20
3.1	The National Security Establishment	20
3.2	The Foreign Service Establishment	24
3.3	The Intelligence Establishment	25
3.4	The NSC Process	30
4	The Public, Trusted Elites, and the Media	32

1 The Constitutional Setting: An Invitation to Struggle

The US foreign policy decision making process involves numerous people and organizations, with suggestions, plans, modifications of plans, etc. traveling up and down and sideways through a huge bureaucracy. What does the process look like? It is easier to list the people and organizations who play major roles in it. The Constitution doesn't have much to say about the making of foreign policy, but it does have something to say about the distribution of authority.

Presidential powers are enumerated in Article Two, Section 2 of the Constitution, the relevant parts of which are as follows:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to Grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

Congressional powers are enumerated in Article One, Section 8 of the Constitution. The relevant parts are as follows:

The Congress shall have power

To lay and collect Taxes, Duties, Imposts, and Excises, to pay the Debts and provide for the common defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To coin Money, regulate the Value thereof, and of foreign Coin;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Nations, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

To summarize, the President executes laws, makes treaties and appoints ambassadors and members of Cabinet, like the Secretaries of State and Defense (all must be ratified by the Senate), and is the commander in chief of the military. The Congress makes all laws, declares war, imposes uniform taxes and incurs debt, allocates budgets for the military, calls up the militia, and can reject Presidential nominees for national security functionaries. The President can veto Congressional acts — like a declaration of war, for example — but Congress can override such a veto if both houses vote with at least two-thirds majorities to do so.

It is worth pausing to reflect why the Constitution divides foreign policy responsibilities between Congress and the President. In 1787, most other polities recognized no such divisions, with foreign policy being the purview of the executive, usually a monarch. When the Thirteen Colonies rebelled against Great Britain in 1775, the Second Continental Congress was merely an *alliance* of sovereign states, not a representative legislative body of a unified country. The colonies did have important attributes of states: they had their own constitutions, legislative bodies, judiciaries, militias, and systems of taxation. They were sovereign unless occupied by British troops. With the rebellion, the authority of the British Crown devolved to the states, not to the Continental Congress. Since the colonies did not want to relinquish the authority usurped from the Crown and because the association was voluntary (Georgia would not join it until July 1775), the federal arrangements the colonies made were so weak that it is perhaps better to think of them as an alliance, in which Congress had very limited powers.

The Revolutionary War had broken out without much deliberation on the American side, and the ongoing fighting required some agency that could coordinate the war effort of the colonies. This is what Congress was supposed to do. It was not intended to become a permanent institutions, and certainly not an arm of a strong

federal government. The focus on fighting also meant that not much thought had gone into designing the appropriate institutional features of this agency. Congress (and the colonial governments) would have to learn in the crucible of war.

First, Congress was not granted the authority to tax or to maintain a standing army: the two thorny issues at the heart of the rebellion. Second, there was no executive: after all, the colonies had rebelled against King and Parliament, they had little desire to subject themselves to President and Congress.

The Continental Congress provided for the unified command of colonial forces, established the Post Office to improve communications, regularized trade, and directed Indian affairs. There was no bureaucracy and very little in the way of support staff. The Continental Congress did not even own a building in which to hold its meetings. Worst of all, even though it could appropriate funds for the war, it had *no authority to tax* and *no standing army*. As a result, Congress wandered around during the war and used *ad hoc* committees to do most of the work. To raise money, it passed nonbinding resolutions asking the States to meet their quotas of revenue, armaments, and troops. These requests were routinely ignored despite the ongoing war. For example, in 1777 Continental Congress requested 80,000 men, of which the States furnished fewer than 35,000. By 1781, Congress could muster only 30,000 men to face the British. The abysmal performance of the American forces in the first years of the war can be attributed not only to inexperience but also to the institutional deficiencies of the war support system.

Because of these constant shortages, Congress borrowed from domestic and foreign sources (France, the Dutch Republic, and Spain, which also provided free aid). It also resorted to printing paper money, but without a regular source of tax revenue to back up promises to repay, domestic lenders became reluctant to make further loans despite Congress raising the interest rate from 4% to 6%. Congress had to increase its reliance on its paper money but printing more currency that was not backed up by specie when the States refused to increase taxes to absorb it led to rapid depreciation and serious inflation. This is the origin of the expression “not worth a continental” (which is what these dollars were called). Since inflation always hurts lenders who are paid back in nominal amounts with now worthless money, Congressional credit dried up completely, and even foreign lenders — who had been willing to make outright grants — also balked. (Congress, in fact, defaulted on most of the foreign loans after the war.) In just over a year of fighting, the Colonies faced the very real possibility that the war effort would collapse because of the institutional shortcomings of the alliance they had created.

As a result, the States revisited their institutional arrangements. On July 4, 1776, on the day they declared Independence, the States also created a **Confederacy**. It still allowed for no executive, no administrative agencies, and no judiciary (federal courts). It still denied Congress the authority to impose taxes. Instead, Congress had to rely on State legislatures for revenue. It would assess quotas proportional to value of land and improvements but it quickly became clear that it could not make these

assessments since the States would not cooperate and Congress had no authority to enforce either the assessment or the collection. Between 1781 and 1786, Congress asked for \$15.7 million from the States under this system, and received only \$2.4 million. Alexander Hamilton bitterly complained that the Articles of Confederation were too weak for the task the States were facing: there was no adequate control over the military force, there was no effective power of the purse (authority to levy taxes, appropriate expenditures for particular purposes, and audit the accounts), and there was too much State control.

He was right. Even though Congress could legislate on war, army and navy, treaties, borrowing, and appropriations, all of this required 9 States to consent (70% super-majority). Since the authority to tax would require a constitutional amendment, any grant of a tax would need unanimous approval to pass. By 1781, the value of Continental dollars had collapsed to nearly zero and in desperation Congress requested the States to pass a modest 5% customs duty on imports to provide much-needed revenue for the war. The unanimity requirement doomed this initiative when Rhode Island vetoed it. By now, even staunch opponents of a stronger federal government had to concede that it was necessary to give Congress the power of the purse.

The lack of an executive arm also meant that Congress had to direct the war by committee. Even though this was better than debating military policy in the full assembly, it was still highly inefficient for managing day-to-day operations. Given the ever-changing context on the ground, the distant theaters of operations, and the generally poor lines of communication, any information that Congress received was likely to be out of date by the time it was acted upon, and any command was likely to be unproductive by the time it arrived on the battlefield. Even in committees, debates on military strategy provided occasions for other political issues to intrude, delaying resolutions and further aggravating the coordination problem. Finally, since success in military action requires that the enemy is kept in the dark about operational plans, public debate of military operations would have made secrecy well nigh impossible. As Samuel Chase noted,

The Congress are not a fit Body to act as a Council of war. They are too large, too slow, and their Resolutions can never be kept secret.¹

This micromanagement of the war effort by Congress was another reason the Americans generally performed very poorly on the battlefield until the later phases of the war.

To remedy these deficiencies, and new **Constitution** had to be devised. The institutional arrangements it provided for had to address both the States' fears of being dominated (and even subjugated) by a strong federal government and the necessity of having a strong federal government that could wage war effectively.

¹Letter from Samuel Chase to Richard Henry Lee (May 17, 1776), *Letters of Delegates to Congress*, May 16 – August 15, 1776.

Since the war finance problems had become acute and obvious, Congress acquired the authority to levy uniform taxes across the States, to incur and service debt, and to issue money exclusively. Since the mismanagement of the war strategy had revealed the need for an executive with relative freedom of action, the Presidency was created and endowed with wide discretion in implementing policy. The President was also given sole command of the armed forces (meaning that Congress could no longer interfere with tactical command and day-to-day decisions), but to ensure that he would not be able to use this control of the standing army to blackmail Congress or turn himself into a king, Congress retained the full power of the purse and was explicitly required to fund no more than two years of army maintenance at a time. It had sole authority to appropriate money (allocate funds for specific expenditures, curtailing the executive's discretion), audit the accounts (ensure that the money was spent on purposes it was allocated for), and declare war (restricting the President's ability to involve the country in war, which normally increased his powers relative to those of Congress).

Thus, the Constitution deliberately set up a system that virtually guaranteed that when it comes to foreign policy, the President and Congress would often end up at loggerheads. This inherent conflict of interest between the two branches ensured not only that each will be protected from the other, but that they would find it difficult to cooperate to impose themselves on the States. Since war-fighting would normally give the edge to the President in policy authority, and thus provide him with incentives to wage war quite apart from any national security concerns, it was important to devise arrangements that would reduce the President's ability to go to war. John Jay was quite explicit in *The Federalist Papers*, when he argued that

Absolute monarchs will often make war when their nations are to get nothing by it, but for purposes and objects merely personal, such as thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans.²

Since it was much less likely for Congress to agree to such adventures, allocating budgetary and war declaration powers to Congress would substitute collective judgment about the necessity of any particular war for the President's individual judgment, and thus reduce the likelihood of abuses of power. If the President wanted to take the country to war, he had better be able to convince Congress of the necessity of doing so. One can understand the satisfaction of the pacifist Thomas Jefferson when he wrote to James Madison in 1789 that

we have already given. . . 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.³

²*The Federalist*, No. 4, at 45.

³Quoted in William C. Banks and Peter Raven-Hansen. 1994. *National Security Law and the Power of the Purse*. New York: Oxford University Press, p. 3.

In this case, the President could not spend public revenue without appropriation by Congress (effective control of the purse) but could not even wage war without declaration by Congress (shared policy-making). Moreover, control of the purse also meant that Congress could influence how long the U.S. would fight (by refusing to appropriate money to continue the war).

This separation was even more important when it came to the authority to incur national debt. Since most wars cannot be financed out of current taxes, the federal government had to be given the authority to borrow. It was self-evident to Alexander Hamilton that the Republic's ability to expand its mobilizable resources beyond the constraints of the tax base would be crucial to any war, and thus, to its survival and prosperity. The nation's credit

is so immense a power in the affairs of war that a nation without credit would be in great danger of falling a victim in the first war with a power possessing a vigorous and flourishing credit.⁴

He chastised some for being "ignorant enough" to think that war can be paid for by taxation alone, and pointed that even "powerful and opulent" nations like England, France, and the United Provinces are "deeply immersed in debt."⁵ These were

plain and undeniable truths [that] loans in times of public danger, especially from foreign war, are found an indispensable resource, even to the wealthiest of them. And that in a country, which, like this, is possessed of little active wealth, or in other words, little monied capital, the necessity for that resource, must, in such emergencies, be proportionably urgent.⁶

Jefferson did not deny that borrowing would improve the country's ability to wage war. In fact, this was precisely why he disapproved of it. His position was that public debt hid the real costs of war from the people in a way that taxes did not, and therefore increased their belligerency. He wished for

an additional article [in the Constitution] taking from the Federal Government the power of borrowing. [...] I know that to pay all proper expenses within the year would, in case of war, be hard on us. But not so hard as ten wars instead of one. For wars would be reduced in that proportion.

⁴The cite is from *Defence of the Funding System*, and is quoted by Max M. Edling. 2007. "So Immense a Power in the Affairs of War": Alexander Hamilton and the Restoration of Public Credit." *William and Mary Quarterly*, 64(2): 287-326, p. 295.

⁵Cited in Henry Cabot Lodge, Ed. 1904. *The Works of Alexander Hamilton*. New York: G.P. Putnam & Sons, Volume 1, The Continentalist IV. Included in The Online Library of Liberty, <http://oll.libertyfund.org/title/1378/64156/1591126>, accessed January 19, 2010.

⁶Harold C. Syrett, and Jacob E. Cooke, Eds. 1979. *The Papers of Alexander Hamilton*. New York: Columbia University Press, Vol. 6, pp. 67-72. Included in *The Founders' Constitution*, Vol. 2, Article 1, Section 8, Clause 2, Document 5, http://press-pubs.uchicago.edu/founders/documents/a1_8_2s5.html, accessed January 19, 2010.

He cursed the

spirit of war and indebtment, which, since the modern theory of the perpetuation of debt, has drenched the earth with blood, and crushed its inhabitants under burdens ever accumulating,⁷

and claimed that if the English state was not allowed to borrow, it would have placed the English “under the happy disability of waging eternal war.”⁸

Naturally, as befits any state, the U.S. government’s behavior followed Hamilton’s advice. Even Albert Gallatin, whose aversion to public debt was notorious, could not see any way out of relying on loans as the primary method of paying for wartime expenses. When the War of 1812 finally came, the U.S. paid for it mostly by borrowing: out of approximately \$70 million in war expenditure, the government funded \$64 million, or almost 92%, from the proceeds of loans.⁹

With Congress holding the powers to tax and borrow, and the sole authority to declare war, it would appear that the President would have very little in ways of policy discretion when it comes to foreign policy. This, however, has proven not to be the case. Instead, direct Congressional participation in policy-making has shown itself to be highly ineffective, and Congress has allowed the initiative to slip to the President. One can envision this system as one in which the executive is constantly expanding its role in foreign policy by developing an extensive centralized administration to manage it, with Congress periodically reasserting its authority by exercising the power of the purse. With the growth of executive agencies that employ millions and whose spending activities are central to the economy, curbing the power of the executive through threats to withhold funding has become increasingly difficult.¹⁰

2 Evolution of Responsibilities and Sharing of Power

Whereas the Constitution explicitly reserves the right to declare war for Congress alone in an attempt to restrict the President’s ability to take the country to war on his own initiative, Presidents have often circumvented this by engaging in military

⁷Letter to John Taylor, November 26, 1798. Andrew A. Lipscomb, Ed. 1904. *The Writings of Thomas Jefferson*. Washington, DC: The Thomas Jefferson Memorial Association, Vol. 10, pp. 64–5.

⁸Letter to John W. Eppes, June 24, 1813. Andrew A. Lipscomb, Ed. 1904. *The Writings of Thomas Jefferson*. Washington, DC: The Thomas Jefferson Memorial Association, Vol. 3, p. 272.

⁹See the table in Henry C. Adams. 1917. “Financial Management of a War.” In National Bank of Commerce in New York. *War Finance Primer*. New York: National Bank of Commerce, p. 69. Gallatin’s concern was mostly about the interest rate that the government would have to pay to attract private capital. Alexander S. Balinky. 1959. “Gallatin’s Theory of War Finance.” *William and Mary Quarterly*, 16(1): 73–82.

¹⁰We are not going to discuss the role of Courts in foreign policy, but we should keep in mind that the courts can declare any law passed by Congress or an act by the President unconstitutional.

actions without formal declarations of war. The specific choice of the wording “declare war” instead of “make war,” which was the wording in penultimate drafts of the Constitution, indicates the source of these expansive claims. The Framers sought to allow the President to repel a sudden attack on the country but still wanted Congress to assume responsibility for any protracted action, which they assumed will have to involve a declaration of war.

As a result of this leeway, Presidents have claimed essentially emergency national security powers to fight in all conflicts starting with the Korean War. This executive activism generated a congressional backlash on November 7, 1973 when the **War Powers Resolution** act was passed (over President Nixon’s veto) to clarify the limits of what the President can do without explicit authorization by Congress. The Resolution boldly declares that

It is the purpose of this chapter to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

It then reminds that the Constitution limits the President’s power to use force to only three instances: a declaration of war, a specific authorization from Congress, or a national emergency created by an attack on the United States or its forces. It then requires the President to consult with Congress before using force and continue these consultation while military action is in progress. The Resolution requires the President to submit a report within 48 hours every time he introduces U.S. armed forces into existing or imminent hostilities. This triggers a 60-day limit to their deployment. Unless Congress acts to approve continued military action within 60 days of initial use, the President must remove all U.S. armed forces that are engaged in hostilities without a declaration of war or explicit statutory authorization.¹¹

Each President has since taken the position that this act in no way diminishes his authority to use military force abroad without Congressional authorization. Even while submitting the reports required by the act, the Presidents have explicitly noted that the reports were purely informational (not seeking authorization) and that their use of force was based on the constitutional prerogative of the executive.¹²

Moreover, since it is generally agreed that the President can use force without explicit authorization by Congress in emergencies (**defensive war powers**), a more expansive definition of what constitutes an emergency could also be used to circumvent the constitutional checks on executive war powers. As we shall see, both

¹¹Or if Congress is physically unable to meet because of an attack upon the United States. The President can also extend this period by another 30 days citing “unavoidable military necessity”.

¹²For more detail, see Barnhart, Michael. (Ed.) 1987. *Congress and United States Foreign Policy: Controlling the Use of Force in the Nuclear Age*. Albany: State University of New York Press.

terrorism and the proliferation of weapons of mass destruction (WMDs) readily lend themselves to such expansive interpretation of imminent threats: terrorist act without warning and are capable of inflicting serious casualties, whereas WMDs can also be used, with devastating effect, without traditional military buildup. Any state harboring terrorists or suspected of having WMDs can become the target of counter-terrorist measures, which can include covert operations and direct military action. The right to take such actions could be inherent in the President's defensive war powers.

2.1 Three Ways to Authorize Use of Force

There are three ways in which Congress can authorize the use of force, two of them explicit and one implicit. These are in addition to the instances where the President can use force on his own authority under the defensive war powers.

The first explicit authorization is for Congress to formally **declare war**. The United States has formally declared war eleven times in five conflicts.¹³ For example, the United States declared war on Germany on April 6, 1917 with the following act in a joint session of Congress:

WHEREAS, The Imperial German Government has committed repeated acts of war against the Government and the people of the United States of America; therefore, be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war between the United States and the Imperial German Government, which has thus been thrust upon the United States, is hereby formally declared; and that the President be, and he is hereby, authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial German Government; and to bring the conflict to a successful termination all the resources of the country are hereby pledged by the Congress of the United States.

When Congress declares war in this way, there is no doubt about the scope of intended military action (“entire naval and military forces. . . all the resources of the country”), and that Congress fully shares responsibility for this war — and so assumes responsibility for its funding until successful termination — with the President. This type of declaration also triggers a wide range of powers for the executive that are keyed to “declared war” or simply “war”: mobilization of troops (including, if necessary, conscription), initiation of economic sanctions, detention of enemy aliens, and extensions of enlistments, among others.

¹³Great Britain in the War of 1812, Mexico in the Mexican-American War, Spain in the Spanish-American War, Germany and Austria-Hungary in World War I, and Japan, Germany, Italy, Bulgaria, Hungary, and Romania in World War II.

This sort of declaration of total war has not occurred since World War II. Instead, Congress has opted for a second method, relying on **use-of-force resolutions**, which it has used thirteen times, effectively declaring war by deed if not by word. These instances, which tend to be narrower in scope, include the Persian Gulf War, and the wars in Afghanistan and Iraq.¹⁴ For example, the relevant Section 3 of the *Authorization for Use of Military Force Against Iraq Resolution of 2002* is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 3. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

- (a) Authorization.—The President is authorized to use the Armed Forces of the United States as he determines to be necessary and appropriate in order to—
 - (1) defend the national security of the United States against the continuing threat posed by Iraq; and
 - (2) enforce all relevant United Nations Security Council resolutions regarding Iraq.
- (b) Presidential Determination.—In connection with the exercise of the authority granted in subsection (a) to use force the President shall, prior to such exercise or as soon thereafter as may be feasible, but no later than 48 hours after exercising such authority, make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—
 - (1) reliance by the United States on further diplomatic or other peaceful means alone either (A) will not adequately protect the national security of the United States against the continuing threat posed by Iraq or (B) is not likely to lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and
 - (2) acting pursuant to this joint resolution is consistent with the United States and other countries continuing to take the necessary actions against international terrorist and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001.

The resolution also requires the President to report to Congress at least once every 60 days about the progress of any actions related to this matter, and insists on compliance with the War Powers Resolution. Note the explicit limitations of the use of armed forces against the threat posed by Iraq and enforcement of UNSC Resolutions about Iraq. This sort of specificity is now commonplace, partly in reaction to what the Presidents did when given blanket authority to fight. Consider,

¹⁴By the time President Bush got around to requesting approval for war on Iraq on January 8, 1991, the U.S. had over 500,000 troops in the Arabian desert.

for instance, the most famous authorization of use of force in the **Gulf of Tonkin Resolution** of August 7, 1964, which gave a blank check to President Johnson to wage war in Vietnam:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

Unlike other use-of-force authorizations, this one merely enjoins the President to take “all necessary measures to repel any armed attack...and to prevent further aggression.” It is one of the reasons that the war could expand not only within Vietnam, but also around it.

Since the authorizations to use force do not involve a formal declaration of war, they do not trigger the full range of legal authority keyed to “declared war” (e.g., detention of enemy aliens). Since the legal status of ensuing hostilities is unclear, there is also debate whether it triggers any authorities keyed to just “war”. This makes the domestic legal aspect of these resolutions ambiguous, which Congress could choose to clarify by being more specific in its authorization.

Finally, the United States has also engaged in seven armed conflicts since 1950 under authorizations by the United Nations Security Council (UNSC).¹⁵ Some of these were also supported by Congressional authorizations to use force (e.g., the deployment to Lebanon in 1983, and the Persian Gulf War), but most were not. Although it is sometimes argued that international authorization (e.g., by the UNSC or even NATO) can act as a substitute to congressional authorization, this is not so because it would contradict the constitutional provision that both houses of Congress must agree to declare war. That’s because only the Senate is empowered to ratify

¹⁵The Korean War, the 1978–84 deployment of marines to Lebanon, the Persian Gulf War, the Bosnian War of 1992–95 (but not the Kosovo campaign in 1999), the Second Liberian Civil War, the intervention in Haiti, and the Libyan Civil War.

international treaties, which means that the House of Representatives would be excluded from any declaration of war based on authorization by an international treaty to which the United States is party. Thomas Jefferson was explicit about this and agreed with Madison:

that the subjects which were confided to the House of Representatives in conjunction with the President and Senate, were exceptions to the general treaty power given to the President and Senate alone; [. . .] that whenever a treaty stipulation interferes with a law of the three branches, the consent of the third branch is necessary to give it effect; and that there is to this but the single exception of the question of war and peace. There the Constitution expressly requires the concurrence of the three branches to commit us to the state of war, but permits two of them, the President and Senate, to change it to that of peace, for reasons as obvious as they are wise.¹⁶

If authorization to use force by UNSC is not a substitute for congressional resolution to that effect, then how are we to understand the use of force by the United States in these instances? This is the occasion for the third way in which Congress can authorize the use of force, which (unlike the other two) is implicit in the actions Congress takes (or fails to take).

Sometimes the authorization to use force can be **inferred from appropriation bills** passed by Congress. When Congress declares its “firm intention to provide all necessary support for members of the Armed Forces of the United States fighting in Vietnam” as it did in its 1966 appropriation act for military procurement or flatly rejects bills that require troop withdrawals, there can be little doubt that it is, in effect, authorizing the use of force. Even after the Gulf of Tonkin Resolution was repealed, congressional activity on appropriation measures could be construed as continued support for the Vietnam War. This is precisely what the Second Circuit Court of Appeals found when it asserted that there

was sufficient legislative action in extending the Selective Service Act and in appropriating billions of dollars to carry on the military and naval operations in Vietnam to ratify and approve the measures taken by the executive, even in the absence of the Gulf of Tonkin resolution.¹⁷

Thus, by failing to cut off the appropriations that are absolutely necessary for military action, Congress can effectively authorize the use of force without explicit resolutions. This is precisely what has happened in all these instances of apparent international authorization. Had Congress decided not to go along with the use of force the UNSC had authorized, it could have simply refused to appropriate the

¹⁶Unaddressed letter, March 13, 1816. Andrew A. Lipscomb, Ed. 1904. *The Writings of Thomas Jefferson*. Washington, DC: The Thomas Jefferson Memorial Association, Vol. 14, p. 445.

¹⁷See William C. Banks and Peter Raven-Hansen. 1994. *National Security Law and the Power of the Purse*. New York: Oxford University Press, pp. 119–22.

funds necessary to carry out the operations. Since the **Antideficiency Act** (ADA) prohibits the executive from entering into any contract that is not fully funded by congressional appropriations and criminalizes violations, such refusal could have stopped any unwanted military action.¹⁸

2.2 The War Powers Resolution

As I noted before, the War Powers Resolution (WPR) that Congress passed in 1973 was an attempt to assert what Congress saw as the constitutional requirement of collective judgment when it came to fighting a war. It was supposed to be a remedy for an activist Executive who had used (and abused) its access to superior information, foreign policy initiative, and national visibility when it comes to security to exclude Congress from all but superficial influence in the Vietnam War. The preamble insists that the President can only use force in three circumstances: when Congress (1) declares war or (2) provides specific statutory authorization, or when (3) there is a national emergency created by attack on the U.S., its territories or possessions, or its armed forces. These limits are too right, however, because they ignore the well-established principle that the President can decide to use force on his own to defend against imminent attacks (preemption) or to rescue and protect Americans abroad. From its inception, then, the WPR has been open to legal constitutional challenge by the Executive. The fact that it has not come only suggests that the Presidents have found the WPR more useful than not. But how can that be? How can a law that Congress clearly intended to constrain the Executive is more useful to the President than not having such a law?

The WPR requires that the President consult with Congress “in every possible instance” before involving U.S. armed forces in hostilities or introducing them in situations where such involvement is imminent and clearly indicated by the circumstances (i.e., the President cannot put troops in harm’s way and then wiggle out of the consultation requirement with the argument that they had not initiated hostilities but were attacked by someone else). The WPR neither specifies whom the President is to consult nor clarifies what this consultation should consist of, and Presidents have used these omissions to merely inform only a few select sympathetic members of Congress, often hours before commencement of troops involvement, thus satisfying the letter of the law while clearly violating its spirit.

Beyond consultation, the WPR sets forth reporting requirements. The President must report to Congress within 48 hours any time he uses U.S. armed forces (1) in hostilities or situations where hostilities are imminent and clearly indicated by circumstances, (2) for armed deployments into foreign territory, airspace or wa-

¹⁸The ADA was enacted in 1870 because the army had spent its entire budget in just a few months but had then proceeded into deficit spending, forcing Congress to appropriate additional funds or allow breach of contract by the government. The ADA is the reason government has to shut down when Congress fails to pass an appropriations bill.

ters (unless merely replacing existing forces there or when done so for purposes of training and repair), (3) for deployments which substantially increase existing U.S. combat-ready forces in a foreign nation. The report should go to the Speaker of the House and the President pro Tempore of the Senate, and should explain why U.S. forces are being used, the authority under which they are being used, and provide an estimate of scope and duration of their use. These reports should continue to be submitted at least once every six months while U.S. forces are being used.

Whenever the President submits a report under the first requirement (or is required to do so), the **sixty days clock** starts running: he must terminate the involvement of U.S. forces within 60 days unless Congress declares war, authorizes their use, extends the 60-day period by law, or is physically unable to meet because of an attack upon the United States. The sixty-days clock can be extended by another 30 days if the President cites “unavoidable military necessity respecting the safety” of the forces. Obviously, should Congress direct the President to remove the U.S. forces at any time before the clock expires, he must do so.

The sixty-days clock has problems from both presidential and congressional perspectives. Nixon defended his veto of the WPR by arguing that it was unconstitutional (on the grounds we noted above) but also that it was bad policy since it could tie the hands of the President whenever Congress could not agree on what action to take. Congress could merely sit tight and do nothing after the report is submitted, and force the President to withdraw the U.S. forces. Since this could also result from Congress not wishing to take unpopular action against presidential initiative, it might make it all too easy for the legislature to bind the executive against popular will. Since it is always going to be more difficult to openly legislate withdrawal of U.S. forces against the opposition of the President, the sixty-days clock seems to give Congress a free pass if it is activated. As it turns out, however, this is a big “if”.

The sixty-days clock only starts if the President submits a report under the first of the three possible scenarios. If, instead, the President submits a report under either of the other two or without specifying any, the clock does not run. This, in fact, is what presidents have done with all their reports except one: they have either denied that hostilities are occurring (or that they are imminent) or they have been silent about the provision under which they are using U.S. forces (they just indicate that a report was “required to be submitted” by the WPR or that they are submitting a report “consistent with” the WPR).¹⁹ Even when they do this, Presidents (each and every one of them) have maintained that the WPR is an unconstitutional infringement by Congress on the President’s authority as Commander in Chief. The issue has never been addressed by the courts.

¹⁹As of 2012, presidents have submitted 132 reports under WPR, and only one — the Mayaguez incident in 1975 — referred to hostilities or imminent hostilities. Richard F. Grimmett. 2012. “War Powers Resolution: Presidential Compliance.” Washington, DC: Congressional Research Service, RL33532. <https://opencrs.com/document/RL33532/>, accessed July 7, 2014.

For its part, Congress has tried to act as if the sixty-days clock is meaningful even without the report (presumably under the logic that the WPR also allows activation of the clock without a report provided the circumstances were such that President would have been required to submit one). Two assertive instances in that regard occurred under the Reagan administration. In 1983, the President submitted a report about the presence of U.S. forces in Lebanon that failed to trigger the clock, and Congress went ahead to find that American armed forces had, in fact, been introduced into hostilities and so the sixty-days provision was activated (the Lebanon Resolution of October 13, 1983). This was the first time Congress actually explicitly authorized the use of force under the WPR since it was passed, and the authorization was no blank check. Moreover, the President implicitly endorsed the WPR by signing the Lebanon Resolution because that resolution was quite clearly grounded on the WPR. This was despite the fact that in his statement on the signing of the resolution Reagan disavowed any such intent:

The text of this resolution states a number of congressional findings, determinations, and assertions on certain matters. It is, of course, entirely appropriate for Congress to express its views on these subjects in this manner. However, I do not necessarily join in or agree with some of these expressions. For example, with regard to the congressional determination that the requirements of section 4(a)(1) of the War Powers Resolution became operative on August 29, 1983, I would note that the initiation of isolated or infrequent acts of violence against United States Armed Forces does not necessarily constitute actual or imminent involvement in hostilities, even if casualties to those forces result. I think it reasonable to recognize the inherent risk and imprudence of setting any precise formula for making such determinations.²⁰

Less than two weeks after this, on October 25, the President introduced U.S. forces in Grenada without consultation and without invoking the trigger clause of the WPR. Congress reacted immediately, with both houses passing resolutions that the WPR had become operative on the day of invasion and that the sixty-days clock was running. Unlike the Lebanon case, however, Congress did not act to authorize the use of force in Grenada or to bring the two provisions to conference. Instead, the Reagan administration promised to remove all troops before the deadline expired, which it did by December 15, and Congress let the provisions die. It would do something very similar in 1989 over the use of force in Panama. In 1999, Congress actually passed a supplemental appropriations bill 58 days after commencement of the bombing campaign against Yugoslavia, in effect authorizing the use of force even though the WPR clock had not been triggered.²¹

²⁰Ronald Reagan. "Statement on Signing the Multinational Force in Lebanon Resolution, October 12, 1983," <http://www.presidency.ucsb.edu/ws/?pid=40624>, accessed July 10, 2014.

²¹The WPR actually specifically states that no authorization for the use of force should be inferred

Presidents have mostly found a way to ensure that Congress never gets its putative free pass. This seems to take the teeth out of the WPR, but does not explain why they have not challenged it in court. (Save perhaps for the possibility, remote though it is, that the courts might side with Congress on this.) A more extreme interpretation of the WPR would, in fact, give President a free pass to use force for 60 days without Congressional authorization. The WPR itself is pretty clear that this is not intended:

Sec. 8.(d) Nothing in this joint resolution— [...] shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

However, it is difficult to avoid the impression — strengthened by the media — that the WPR presupposes that the President can use force for 60 days without congressional authorization. Even if a President were to submit a report that triggers the clock, Congress would have to act affirmatively to get him to withdraw the U.S. forces he has committed to hostilities — in the absence of such action, the WPR would allow the President to use force for at least 60, and possibly 90, days without specific authorization. It is because of this that Presidents might not have been eager to challenge the WPR while decrying its unconstitutionality. It is also because of this that critics of unilateral decisions to use force by Presidents have said that instead of curbing presidential powers in foreign policy, the WPR in fact gives them authority that they do not possess under the Constitution.

2.3 Informal Constraints on Presidential Powers

Although relations between the President and Congress were not devoid of conflict during the Cold War — as witnessed by the War Powers Act — Congress has become much more assertive (some would say, meddlesome) in foreign affairs since the end of the Cold War. Since the President needs to cultivate support for this administration’s policies, he must be responsive, indirectly, to the same incentives as much of Congress itself — this is where public opinion can matter. Congress and public opinion can act as constraints on the executive in ways that go beyond formally defined powers. The President may order the deployment of the formidable U.S. military, but he might find it impossible to remove a single objectionable bureaucrat from office or even get the appointments for officials he wants. Struggles between Congress and the President over particular foreign policies also often mask the struggle over the deeper, and more fundamental, issue of control of the power to

from any provision or law, “including any provision contained in any appropriation Act” but for reasons we explored above, it would be difficult to disclaim responsibility, and therefore authorization, for a conflict when Congress agrees to pay for it.

make foreign policy. This is why sometimes conflicts over particulars that should, in principle, be easily resolvable end up dragging on forever and engender much bitterness on both sides.

The President must be a talented politician so that he can generate sufficient support in Congress, the federal bureaucracies, and among the public. President Truman, who had been fairly good at managing relations with these other actors, noted that his successor, Dwight Eisenhower (a successful five-star general in World War II and very popular), will soon discover this discrepancy between the formal powers of the President and reality:

He'll sit there and he'll say, 'Do this! Do that!' *And nothing will happen.* Poor Ike — it won't be a bit like the Army. He'll find it very frustrating.²²

Among these constraints are:

1. Public opinion. Effective foreign policies might violate norms and values widely held by the American public. It might be quite difficult to generate support for operations that require actions incompatible with those values. When policies also require secrecy, the Executive will face a dilemma between efficacy of these policies and the democratic requirements of oversight, transparency, and accountability. Senator Moynihan famously argued then in this dilemma openness should prevail: “*Analysis*, far more than secrecy, is the key to security.”²³
2. Inherited budgets and personnel. At least for the first months, perhaps year, of his term in office, the President will have to operate very much within the context set up by his predecessor. It will be hard to change things, much to the frustration of Presidents who will find out that they will be forced to depart from many of their electoral promises.
3. Bureaucratic politics. Bureaucracies are well-known for fighting hard to preserve and increase their budgets, and for resisting encroachments or curtailment of their scope of operations and authority. Loyalty to the organization can lead to foot-dragging and poor implementation of presidential directives if they are seen to conflict with the organization's mission, interfere with the operating procedures of the organization, or to hurt the organization in some way. Bureaucratic reorganization and inter-agency coordination is extremely difficult even during times where everyone agrees that it is necessary.
4. Personal background. As we shall see, the President's relationships with the Department of Defense and the Department of State will be very important for

²²Cited in Richard E. Neustadt. 1960. *Presidential Power: The Politics of Leadership*. New York: John Wiley & Sons, Inc., p. 9.

²³Daniel Patrick Moynihan. 1998. *Secrecy: The American Experience*. New Haven: Yale University Press, p. 222.

foreign policy formulation and execution. Presidents have to rely on influential experts from these organizations for advice and support, and acrimonious relations among them can easily become public and erode support for President's policies. We shall see an instance of this when Clinton's avoidance of military service produced strained relations with the military. Conversely, Presidents with military background might find much more cooperative attitudes among Defense personnel.

5. National consensus. After the end of the Cold War, the U.S. had no well-defined opponent like the USSR. In such an ambiguous security environment, the many opinions about the proper role of the United States in the world or about its national security goals will exacerbate the conflicts over the power to determine policy inherent in the constitutional arrangements. If the President is to succeed in carrying his vision of what foreign policy should be, he will find it much more difficult when there is disagreement not only about the means (as was often the case during the Cold War) but also about the ends. Dramatic events, like the 9/11 terrorist attacks, can clarify some of the threats, their scope, nature, and potential impact, and thus produce less disagreement about the desired course of action.
6. Congress. Even though its machinery is cumbersome (numerous committees and subcommittees) and operations slow, Congress can hold hearings and conduct investigations. It might not set grand strategy but it still can exercise the power of the purse through budget allocations and demands for oversight. Congress tends to be very sensitive to public opinion as well. This might be good for the Executive because the public generally follows the President in times of crisis, but might also prove a serious liability if the President's popularity wanes and dissenting voices gain dominance in Congress.
7. Party balance. The relative strength of political parties in Congress can seriously affect the President's ability to conduct foreign policy. When government is unified (the President belongs to the party that also has the majority in one or both houses of Congress), the President can rely on party loyalty to carry his agenda through the legislature. Conversely, Congress will be far less obstructionist when the party that controls it shares important policy preferences with the President. **Divided government** refers to a situation where one party controls one or both houses of Congress and the President belongs to another. This used to be rare, but it happened in the 1950s (when Eisenhower, a Republican, was President but the Democrats held majorities in both houses), and has become increasingly common since the 1970s. Divided government can make the President's task very difficult because he would have to generate and maintain support for his policies among people who do not wish him to succeed, politically-speaking. Since the President is

the leader of his party, visible successes for the President can translate into more support for his party, something that the other party will surely resent. As a result, Congress can become very obstructionist, forcing the President to make use of whatever “fast-track” authority he has (limited policy-making ability in certain areas — usually economic policy — that allows the President to go around Congress) or whatever executive prerogative he can get away with claiming. The President can also take his case to the people, forcing Congress — which tends to be sensitive to popular pressure — to come around to his side whenever the policies prove to be highly popular. Not surprisingly, when Presidents win elections by a wide margin, they tend to interpret that victory as a mandate, and this perceived support can carry a lot of weight with Congress.

As if all of this was not hard enough, the President will need to manage the national security establishment in order to produce a coherent foreign policy.

3 The Foreign Policy Environment

The **national security establishment** consists of several centers of power within the executive branch: (1) the **national security triad**, which comprises the Secretary of Defense, the Secretary of State, and the National Security Advisor, all of whom are also members of the **National Security Council** (the secretaries are statutory members); (2) the Chairman of the Joint Chiefs of Staff (JCS); (3) the Director of National Intelligence (formerly, the Director of Central Intelligence, the head of the Central Intelligence Agency); and (4) the Secretary of Homeland Security.

3.1 The National Security Establishment

The national security establishment was created in 1947 by the **National Security Act** to deal with the inadequacies of the Department of State in dealing with the emerging threat that was the Soviet Union. The act created the National Security Council and the office of Secretary of Defense to oversee the Army and the Navy, established the Department of the Air Force, reorganized intelligence into the Central Intelligence Agency (CIA), and founded the Joint Chiefs of Staff (JCS). The position of Secretary of Defense was anomalous because the Air Force had its own department and the service secretaries of the Army, Navy, and Air Force had cabinet status as well. This was revised in 1949, when all three services were combined in the newly established Department of Defense (DOD), and then subordinated to the Secretary of Defense, who remained the sole cabinet-level authority. Another act in 1958 finally gave the Secretary authority over all elements in DOD, and moved decision-making from the military departments to the Secretary and the JCS. (The JCS will themselves be removed from the chain of command in 1986.)

The **Department of Defense** (DOD, Pentagon) is a **line agency** — meaning that it carries out policies and provides services — tasked with the execution of national security policies. It plans and organizes the military, devises military strategy, proposes defense budgets, and decides on weapons acquisition. With approximately 3.2 million employees (both military and civilian) and responsible for more than 2 million military retirees, it is the largest employer in the world. With its expenditures at about 45% of the global military total, it is also by far the largest military spender in the world (more than the next 17 largest military spenders combined). It is also the largest consumer of energy in the country, gobbling up more oil than Sweden and using only slightly less electricity than Denmark.²⁴ DOD's FY 2013 budget was \$614.8 billion, and despite sequestration cuts and unavailability of trust fund resources, its total operating budget in that year amounted to \$1.1 trillion. The Department owns and manages about \$2.2 trillion in assets.²⁵ To get a sense of these numbers, the total size of the U.S. economy was estimated to be about \$17 trillion in 2014, and the federal government spent a total of \$3.5 billion in FY 2013.²⁶ Thus, DOD's budgetary resources amounted to 31% of federal government expenditures, and 6.5% of GDP. In terms of its assets, DOD manages about 13% of the national economy.

As one would expect, this vast of an organization controlling such immense resources has very powerful constituencies. In his dual role as advisor to the President on defense policy and head of a line agency, the Secretary of Defense has to tender his views on the types and size of forces necessary to implement desired particular foreign policies while simultaneously responding to departmental needs to determine the overall composition of forces necessary to maintain U.S. global posture, including training and planning, and somewhat more parochial pressures that influence decision on weapons acquisition. The Secretary must also be responsive to the security needs of the country in a changing environment. As such, the Department has been involved in several major attempts to restructure the armed forces to enable them to carry out their traditional mission as defined by the President (e.g., fight one major and one regional conflict simultaneously or fight two regional conflicts

²⁴Gregory J. Lengyel. 2007. "Department of Defense Energy Strategy: Teaching an Old Dog New Tricks." Washington, DC: The Brookings Institutions. <http://www.brookings.edu/~media/research/files/papers/2007/8/defense%20lengyel/lengyel20070815>, accessed July 8, 2014.

²⁵The total budgetary resources include contributions from the Treasury for retirement and health benefits, appropriations to finance civil projects by the Army Corps of Engineers, retirement and Medicare trust funds, unobligated balances from FY 2012, among others. See Department of Defense. "FY 2013 DoD Agency Financial Report," pp. 22–23, and summary in Figure 9, p. 27. <http://comptroller.defense.gov/FinancialManagement/Reports/afr2013.aspx>, accessed July 8, 2014.

²⁶For the nominal GDP, see http://ycharts.com/indicators/us_monthly_gdp. For the government expenditures, see <https://www.cbo.gov/publication/44716>, both accessed July 3, 2014.

simultaneously) as well as missions required by emergent threats (e.g., counterinsurgencies, unconventional conflicts, pacification, and even nation-building).

Congress itself is heavily involved with the DOD, not only because it must allocate its limited resources between military and non-military priorities (the perennial **guns-versus-butter** problem) but also because it must appropriate DOD resources within specific budget categories. For example, the FY 2013 enacted budget of \$614.8 billion had two parts: \$527.5 billion in base operating funds and \$87.3 billion for Overseas Contingency Operations (OCO). The total budget was split into seven major appropriation categories:²⁷

<i>Appropriation</i>	<i>\$ bn</i>	<i>Share</i>
Operations and Maintenance	\$272.8	44%
Military Personnel	\$149.7	24%
Procurement	\$109.8	18%
Research and Development	\$69.6	11%
Military Construction	\$8.9	2%
Other	\$4.1	1%

Table 1: DoD FY 2013 Enacted Budget by Appropriation.

Large allocations on R&D, procurement, and construction — among other things — can all provide many occasions for political struggles in Congress, resulting in hearings on everything from strategy (what capabilities might be necessary) to resource allocation (how to provide the necessary capabilities). These struggles can easily involve the different services directly, with each supporting its own preferred alternative that would (naturally) tend to preserve or magnify its own importance and reach. When Congress decides on cuts to the military budget, these struggles become more politicized and very open. When these cuts involve potential closure of bases and large layoffs from the vast DoD civilian workforce, Congress can become so deeply involved with the military establishment that budgetary debates turn into debates on strategy, national interests, and even strategy for achieving national goals.

Thus, on one hand the structure of DoD, the military professionalism of the U.S. armed forces, and the traditional subordination of the military to civilian control all work to ensure a limited and indirect role of the military in politics. The military does not, as a rule, participate in the setting of national goals or formulation of policy. Its role is limited to advising on options (although, of course, biased advice can skew the outcomes) and managing the administrative and operational aspects of policy implementation. On the other hand, politics can get involved with the

²⁷Department of Defense. 2013. *Agency Financial Report Fiscal Year 2013*, pp.8-9. Available at <http://comptroller.defense.gov/FinancialManagement/reports/afr2013.aspx>, accessed July 7, 2014.

military as budgetary and political considerations threaten the livelihood of DoD personnel or the viability of U.S. military posture.

The **National Security Council** (NSC) is a specialized exclusive circle of people close to the president which advises him on foreign policy. It is the least publicized but perhaps most powerful government unit when it comes to foreign policy. The NSC is chaired by the President and has seven statutory members — the Vice President, the secretaries of State, Defense, and Energy, the Chairman of the JCS, and the directors of National Intelligence and National Drug Control Policy — several regular attendees — the National Security Advisor, the White House Chief of Staff, and the Attorney General — and as many additional participants as the President sees fit to invite (e.g., the secretaries of the Treasury and Homeland Security, the Ambassador to the United Nations, and the director of Office of Management and Budget, among others). It is this body that plays the crucial role on national security matters, foreign policy formulation, and inter-agency coordination.

The NSC is a **staff agency** — it does not oversee operations or conduct policies itself — and it maintains a small staff to advise its members. In 2009, this staff was merged with the staff supporting the **Homeland Security Council** (HSC) to form a unified **National Security Staff** (NSS). The two councils (NSC and HSC) continue to be independent.²⁸ Since the President gets to decide the membership in the NSC (aside from the statutory participants), the Council can be very responsive to his needs.

Since it is a staff agency, the NSC does not have the vested interests of a traditional bureaucracy and tends to be less encumbered with inter-agency concerns. Moreover, since the President can appoint the National Security Advisor without confirmation by the Senate, this person tends to represent the President's interests very closely and can offer advice that is free of constraints imposed by the clientelles in the service departments. This advisor can also become fairly influential, as McGeorge Bundy was under Kennedy and Johnson, Henry Kissinger under Nixon and Ford, and Zbigniew Brzezinski under Carter.

It is important to understand that the president decides how — if at all — the NSC should be used. Some presidents, like Eisenhower and Nixon, prefer to have a well-defined formal system complete with committees and clear procedures. Others, like Ford and Carter, prefer a somewhat less rigid system that gives more prominence to the advisor. Reagan also tried a formal system but when his advisors came into conflict with other members of NSC, resignations (of Secretary of State Haig) and

²⁸The HSC was established in 2001 to advise the President on homeland security matters. Its statutory members are the Vice President, the secretaries of Treasury, Defense, Health and Human Services, Transportation, and Homeland Security, the Chairman of the JCS, the Attorney General, the administrator of FEMA and the director of the FBI. As with the NSC, the President can invite additional participants depending on particular needs. Among them one regularly sees the White House Chief of Staff, the National Security Advisor, and the director of the Office of Management and Budget.

high turnover (NSAs Allen, Clark, McFarlane, Poindexter, Carlucci, Powell) followed. Some, like Kennedy and Johnson, bypassed the NSC entirely, relying on ad hoc groups of informal advisers.

The **Joint Chiefs of Staff** (JCS) was created as the primary advisor to the President and the Secretary of Defense on military matters — strategic thinking and readiness assessments — and is second in importance only to the NSC when it comes to national security policy. The JCS originally consisted of a (non-voting) Chairman, the Chief of Staff of the Army, Chief of Staff of the Air Force, and the Chief of Naval Operations. The Chairman acquired voting rights in the 1958 reorganization of DOD, which also shifted command authority from the military departments to the JCS. The Commandant of the Marine Corps was consulted regularly but did not become a regular member until 1978. In 1986, the position of Vice-Chairman was added to aid in resource allocation. This reorganization also removed the JCS from operational command of the armed forces, which now flows from the President to the Secretary of Defense, and from there to the commanders of Unified Combatant Commands directly. In 2012, the Chief of the National Guard Bureau was added to the JCS as well, bringing the total number of members to seven.

The most important person in this collective is the Chairman, who is responsible only to the President and the Secretary of Defense. The importance of this position can be magnified during times of internal discord within the military. The usual cause of such discord is congressional intent to cut the military budget. Since career success is typically tied to service in one of the services, and because each service has its own distinct traditions, missions, and organizational culture, there is invariably serious disagreement about the distribution of these cuts. Each service wants others to bear the brunt of reductions, and service parochialism can be extremely difficult to overcome even within the JCS collective. As someone who is supposed to stand above these centrifugal tendencies, the Chairman can coordinate a joint strategy and readiness assessment, and since only he has direct access to the President, his views can carry quite a bit of weight under these circumstances.

3.2 The Foreign Service Establishment

The **Department of State** (DOS, Foggy Bottom) is the principal diplomatic arm of the U.S. government. Created in 1789 (as the Department of Foreign Affairs), the first executive line-agency under the new Constitution, it is the senior member of the national security establishment. Headed by the Secretary of State, it maintains the American embassies abroad, represent the United States, conducts international negotiations, advises the President on foreign policy, and proposes and manages the budget for international affairs. The Department operates country desks that are grouped into regional bureaus (e.g., relations with Russia and the European Union would be the responsibility of the Bureau of European and Eurasian Affairs). The

Department also operates functional units that cut across geographic boundaries (e.g., Arms Control, Verification, and Compliance).

The State Department operates more than 270 embassies in over 180 countries, as well as many other offices related to its tasks. Its operating costs were \$25 billion in FY 2013, with total budgetary resources of \$60.6 billion, and total assets of \$84.8 billion (i.e., a fraction of Defense). It employed about 71,000 people, a third of whom are foreign and civil service personnel, and the bulks are locally employed staff (foreign nationals and contractors).²⁹

Unlike the obviously coercive role of the Pentagon, Foggy Bottom's focus is on negotiation and compromise. The foreign service officers operate in a very traditional diplomatic environment with its own, centuries-old, rules and etiquette. The process of socialization into this culture produces bureaucrats and officers with very different viewpoints from their counterparts in the Pentagon. It is not unusual for DOD and DOS to work at cross-purposes and for the Secretaries of State and Defense to engage in serious disagreements over policy. The traditional dominance of regional bureaus in the Department has also interfered with its ability to devise coherent long-range overall policies linked to domestic concerns.

The Presidents also often complain that State is resistant to changes, that it is very slow, that it botches orders and fails to lead in foreign affairs, and its staff analyses are not very good, and that it is a bureaucracy out of touch and run amok. Even though in principle it should be the President's main advisor on foreign policy, DOS can be obscured by a powerful National Security Advisor (Kissinger) or a powerful Secretary of Defense (Rumsfeld).

3.3 The Intelligence Establishment

The **intelligence community** (IC) is the most important source of information and analysis for the government and comprises 16 separate organizations (as of 2014).³⁰ The IC collects data from various sources: (1) human agents, (2) communications (radio, internet, phones), (3) electronic (radar), (4) imagery (satellites, reconnaissance flights, drones), (5) signature and measurement (seismic, acoustic, optical data). It then processes it into digestible form, analyzes it, and disseminates it to

²⁹United States Department of State. "Fiscal Year 2013 Agency Financial Report," pp. 8–9, 39. <http://www.state.gov/s/d/rm/rls/perfrpt/2013/>, accessed July 3, 2014.

³⁰We shall not discuss all of them, but here they are for reference. In addition to the CIA, there are eight agencies in the Department of Defense — Air Force Intelligence, Surveillance, and Reconnaissance (AFISR), Army Intelligence (G-2), Office of Naval Intelligence (ONI), Marine Corps Intelligence, Defense Intelligence Agency (DIA), National Reconnaissance Office (NRO), National Security Agency (NSA), and the National Geospatial-Intelligence Agency (NGA) — the five agencies run by different departments — Department of Energy's Office of Intelligence and Counterintelligence, Department of Homeland Security's Office of Intelligence and Analysis and the Coast Guard Intelligence, Department of State's Bureau of Intelligence and Research, Department of the Treasury's Office of Intelligence and Analysis — and the stand-alone agencies — the Drug Enforcement Administration (DEA), and the Federal Bureau of Investigation (FBI).

interested parties, most often other intelligence or national security agencies, although occasionally to private parties as well.

As of 2013, the five mission objectives of the IC are (1) providing the U.S. government with early warning of critical events, which range from economic instability and social unrest to emerging threats and potential state failure; (2) combating terrorism by monitoring extremist groups that are plotting or suspected of plotting against the U.S. and its allies, and potentially disrupting their operations; (3) preventing the proliferation of weapons of mass destruction; (4) preventing cyber attacks on U.S. information systems and penetrating those of its adversaries; and (5) defending against foreign espionage. In that year, the IC employed 107,035 people, mostly civilians but also 23,400 military (two thirds of whom work for the NSA), and 21,800 full-time contractors. With respect to its five missions, the IC proposed to spend 39% of that year's budget on early warning intelligence, 33% on combating terrorism, 13% on counter-proliferation of WMDs, 8% on cybersecurity, and 7% on counterintelligence.

The primary agency in this establishment is the **Central Intelligence Agency** (CIA), which was created by the 1947 act from the wartime Office of Strategic Services. Among its various responsibilities are (1) overall coordination and integration of intelligence from other agencies involved with national security, (2) analysis and dissemination of this intelligence, (3) covert operations, and (4) counterintelligence in support of the FBI. The Director of Central Intelligence (DCI) used to be a frequent participant in NSC meetings and the person to brief the President on intelligence-related matters. After the 9/11 terrorist attacks, however, Congress reformed the system and created the office of **Director of National Intelligence** to replace the DCI as the main coordinator for the intelligence community. The DNI advises the President, participates in NSC meetings as necessary, and is called to congressional intelligence oversight committees (the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence). Recently leaked budget requests reveal that the CIA has come to dominate the IC in funding, accounting for 28% of the money spent on intelligence outside of specialized military agencies (see Table 2). The Agency has grown from about 17,000 employees at the end of the Cold War to over 21,000 in 2013. It spends most of its resources on data collection, which includes developing human assets and providing for the security of its operations abroad. More recently, the CIA has expanded its paramilitary forces to manage drone operations, and even though we have no precise figures the 2013 budget request included a line item of \$2.6 billion for covert action programs, which range from drone operations to payments for militias and saboteurs.

The CIA is the center of the intelligence establishment and the scope of its operations is very large. Some vagueness here is inevitable because most organizational information and all operational details are secret. We do not know generally how large its classified budget is, let alone what the Agency is spending its money on. After protracted wrangling with citizen organizations, the government finally

started to release the total figures in 2007, but it still does not disclose how the money is used. In 2013, the documents leaked by former NSA employee Edward Snowden included a summary for the National Intelligence Program as part of that year’s Congressional Budget Justification. The so-called “black budget” of the Office of DNI includes the normally the top-secret figures of requested allocations per agency, and details the goals of the IC along with the progress (or, in many case, the lack of progress) toward achieving them.³¹

<i>Agency</i>	<i>\$ bn</i>	<i>Share</i>
Central Intelligence Agency	\$14.7	28%
National Security Agency	\$10.8	21%
National Reconnaissance Office	\$10.3	20%
National Geospatial-Intelligence Agency	\$4.9	9%
General Defense Intelligence Program	\$4.4	8%
Justice Department	\$3.0	6%
Office of Director of National Intelligence	\$1.7	3%
Others	\$2.8	5%

Table 2: FY 2013 Intelligence Budget Request (\$52.6 billion).

The \$52.6 billion budget does not include the military intelligence services operated by DoD (which had another \$23 billion devoted to them), and is actually 2.4% smaller than the previous year’s budget. It is estimated to be twice the 2001 budget before the global war on terror began. Although no data is available for the Cold War (where presumably intelligence activity would have been at its highest), it is estimated that spending peaked during the Reagan era at around the equivalent of \$71 billion of today’s dollars. The total of \$75.6 billion for FY 2013 exceeds even the extravagance of the Cold War era, and reflects the fluid threat environment and the amounts of data that need to be processed and analyzed.

The Department of Defense currently operates eight intelligence agencies of which four are operated mostly for the benefit of the military services (Army, Navy, Air Force, Marines), and four provide general services. The latter have been of crucial importance: the Defense Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office.

The **Defense Intelligence Agency** (DIA) was established in 1961, employs over 17,000 people, and has two primary functions. Its main one is to provide intelli-

³¹This data is from a leaked Congressional Budget Justification for FY 2013 from the Office of DNI, portions of which have been released and annotated by *The Washington Post*, August 29, 2013. Barton Gellman and Greg Miller, ‘*Black Budget*’ summary details U.S. spy network’s successes, failures, and objectives, http://www.washingtonpost.com/world/national-security/black-budget-summary-details-us-spy-networks-successes-failures-and-objectives/2013/08/29/7e57bb78-10ab-11e3-8cdd-bcdc09410972_story.html, accessed July 7, 2014.

gence about intentions and military capabilities of foreign actors (governments or non-state ones). For the purpose, the agency maintains its own clandestine service and relies primarily on human agents (HUMINT). It collects, analyzes, and disseminates data about any defense-related foreign activities and data, including political, economic, and medical information, among others. The DIA provides input for the very important **President's Daily Brief**.³² The DIA's other role is to manage measurement and signature intelligence (MASINT). This is a highly technical branch of data gathering that detects and tracks distinctive characteristics of various signals from electromagnetic, thermal, acoustic, nuclear, motion, chemical, and biological sources among others. The DIA director also advises the Secretary of Defense and the Chairman of the JCS.

The **National Security Agency** (NSA) is the cryptographic organization that is responsible for the security of government computer networks and information systems, and for intercepting and decoding foreign signals intelligence information. Founded in 1952, the NSA is said to be the largest employer of mathematicians in the world, but its workforce includes physicists, engineers, computer scientists, and linguists. The Consolidated Cryptographic Program, which includes the NSA with the relevant departments in the military intelligence services, employs nearly 35,000 people. The NSA deals exclusively with signals intelligence (SIGINT, as opposed to human sources, HUMINT) and in fact the other intelligence agencies are required by law to deliver the NSA their SIGINT for processing (or at least obtain NSA authorization to do it themselves).³³ The NSA engages in massive electronic surveillance around the world (basically eavesdropping on all manner of communications), detects and exploits software vulnerabilities, tries to break cryptographic codes, and mines vast amounts of data for information.

The **National Geospatial-Intelligence Agency** (NGA) analyzes and distributes geospatial intelligence (GEOINT) and also serves as a combat support agency in the DoD. This agency collates and interprets data about other actors (usually, but not necessarily enemies or potential enemies) that can be referenced to some geospatial location on, above, or below the Earth's surface. Think Google Earth layers with information, where each layer adds yet another level detail about particular locations or activities. The layers could rely on data from photographs, satellite images,

³²This is a top-secret document prepared by the DNI and given to the President each morning. Generally, these documents are so sensitive that almost none have been declassified. What is available, including the first-ever PDB released by the President to whom it was presented (the one from August 6, 2001 headlined "Bin Ladin Determined to Strike in US", which was released by President Bush with minimal redaction on April 10, 2004) can be found at the National Security Archive, <http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB116/index.htm>, accessed July 7, 2014.

³³Signals intelligence (SIGINT) can be separated into communications between people (communications intelligence, COMINT) and signals not used for communications (electronic intelligence, ELINT). The signals are usually provided to the NSA by other agencies (e.g., the NRO, which operates the spy satellites).

terrain analysis, maps, commercial or government databases, building and utility schematics, and so on. Essentially, GEOINT is about organizing and mapping multiple dimensions of spatial data for use in intelligence.

The **National Reconnaissance Office** (NRO) designs, builds, and operates the reconnaissance satellites. Its services are useful not only for monitoring potential trouble spots, but for planning military operations. The agency provides data to the NSA (SIGINT), to the NGA (IMINT), and to the DIA (MASINT), among others. It is not known what capabilities the spy satellites have, but it is likely that they are far superior to their commercial counterparts. It is not known how many spacecraft the NRO operates although there is partial information about some of them. The agency operates ground stations (only five of those are declassified) to collect and disseminate the satellite imagery.

As the proliferation of acronyms might suggest, the intelligence community is a vast and very complex organism that collects, processes, analyzes, and disseminates vast amounts of data. Managing all of this is a formidable task, and people over underestimate just how daunting data processing can be. Since the agencies collect mind-boggling amounts of data, someone has to sift through it to decide what to include and what to toss, how to collate relevant information from multiple sources, and how to make all of that presentable in a form that would be useful to analysts. Someone must judge the reliability of available information in addition to its accuracy. Raw intelligence data is very noisy and often contradictory. Although in hindsight — after an event has occurred — it is often possible to trace some signals of it in the existing heaps of raw data, finding such indicators in that heap beforehand is a lot more challenging because someone must prioritize signals as well.

Most intelligence-related activities are secret and the products of intelligence agencies is almost invariably classified. The public is not merely in the dark about what it is that the IC agencies do, but is often met with a wall of silence when it tries to figure that out. Intelligence successes are almost never revealed (in order to protect the sources of information and the methods of data collection), but intelligence failures tend to be highly visible, either because of an event that everyone can witness (e.g., 9/11) or because of an extensive congressional inquiry (e.g., Iran-Contras). In such an environment, the public can easily become skeptical of the utility of these agencies and even fall prey to various conspiracy theories about their activities. CIA's covert operations, including the increasing use of drones, tend to be the focus of wild speculations. The fact that the Agency has been deeply involved in paramilitary operations without congressional oversight only adds fuel to that fire. Without any transparency into the methods for evaluating data reliability or for conducting analysis, it is also one short step to believing that the IC can fabricate intelligence in order to obtain the policies that it desires or that it believes the President wants. Allegations of cooked intelligence are as old as the CIA, and we shall encounter some of them when we discuss the 2003 Iraq War and the failure to

establish the existence, size, and purpose of the putative WMD programs of Iraq.

Because they depend so critically on secrecy and clandestine operations, intelligence activities often come into conflict with democratic norms of openness, transparency, and accountability. Some limited oversight and control can be provided by congressional committees and special inquiries. However, since Congress itself depends on the expertise and information provided by the IC, its powers are easily curtailed by non-cooperative behavior of the IC agencies, which can obfuscate or conceal data they do not wish to become public, or be merely non-responsive to requests. This usually causes Congress to back down for the sake of national security but it might sometimes provoke it. When Congress turns belligerent, it can pry open the intelligence services in highly publicized hostile hearings that run roughshod over legitimate reasons for secrecy and dramatize only the spectacular failures or illegal overreach of some agency.

These attacks damage the credibility of the IC in the eyes of the public — which will tend to assume that the incidents the inquisition unearthes are typical rather than exceptional — and simultaneously hampers the IC's ability to perform its core missions — because the investigations into clandestine activities can reveal capabilities, organizational approaches, and recruitment methods that make it difficult to protect assets. Foreigners who could have been recruited to provide information and act on behalf of U.S. interest abroad can become very leery of American promises to keep their identities secret and protect them. As a result, human intelligence becomes that much harder and more expensive (because agents would have to be compensated by the additional risk associated with working on behalf of an unpredictable democracy). When surveillance capabilities become public, the opponents can act to plug holes in the security of their communications, diminishing the ability of U.S. intelligence agencies to penetrate them. Thus, whatever the salutary political and social effects of congressional inquiry into the behavior of the IC, one must always carefully balance it against the unavoidable costs.³⁴

3.4 The NSC Process

Under normal conditions (i.e., excepting unpopular wars or national emergencies like 9/11), foreign policy is the preserve of the President and the national security establishment. The President enjoys the advantage of initiative, information, and expertise, and, as we have seen, has great leeway in deciding whether and how to use the U.S. armed forces. Congress and the public depend on the executive branch

³⁴It should be pointed out that members of Congress often are, in fact, informed about various clandestine activities even while the majority is kept in the dark. When the shit hits the fan, however, they are not usually quick to admit to that, preferring to either stay silent or else jump on the accusatory bandwagon. For their part, the IC often has trouble defending its actions without revealing even more information. This environment — where one side hurls accusations and the other seems to do very little to counter them — is fertile ground for conspiracy theories.

for being informed about foreign policy developments, which also gives the President the advantage in defining what constitutes the national interest in specific cases and framing his policies for public consumption. This might impart some coherence on U.S. policy although even in these circumstances the process of policy formulation is extraordinarily convoluted and very difficult to analyze. Policy initiatives can come from the President, from an agency in the executive branch (where some bureaucrat could come up with some bright idea that could percolate to the top), from special interest groups,

Generally, some agency in the executive branch identifies an issue, or, alternatively, the president may initiate the process. The agency drafts an Interagency Study and forwards it to NSC staff, which reviews the draft and presents it, with recommendations, to the special assistant. The special assistant discusses it with the president, who decides whether the issue requires NSC consideration, and if it does, the president issues a **Review Directive**, which orders the preparation of detailed studies.³⁵ All agencies affected by the policy make recommendations to relevant assistant secretary-level committee, which then formulates a draft interagency response which goes up the chain for consideration and eventually reaches the full NSC. The NSC recommends an action to the president who makes a decision. The decision is announced in a **Decision Directive** to the agencies.³⁶ Some of the review and decision directives have been declassified.³⁷

To get some sense of the steps involved, consider an imaginary stylized scenario in which country X is interested in military cooperation with the United States. The road from this to an official response by the U.S. government might look something like this:

1. The Foreign Minister of X notifies the U.S. Ambassador that his country wants military cooperation with the U.S.;
2. The U.S. Ambassador reports to the Department of State, sending along his views on the matter;

³⁵Different administrations use various names for the Review Directive: *National Security Study Memorandum* (Nixon and Ford), *Presidential Review Memorandum* (Carter), *National Security Study Directive* (Reagan), *National Security Review* (G.H.W. Bush), *Presidential Review Directive* (Clinton), *National Security Presidential Directive* (G.W. Bush), and *Presidential Study Directive* (Obama). Note that the NSPD under G.W. Bush replaced both review and decision directives.

³⁶Decision directives also go under various names, depending on administration: *National Security Council* (Truman and Eisenhower), *National Security Action Memorandum* (Kennedy and Johnson), *National Security Decision Memorandum* (Nixon and Ford), *Presidential Directive* (Carter), *National Security Decision Directive* (Reagan), *National Security Directive* (G.H.W. Bush), *Presidential Decision Directive* (Clinton), *National Security Presidential Directive* (G.W. Bush), and *Presidential Policy Directive* (Obama).

³⁷The Federation of American Scientists offers a collection of these in its Intelligence Resource Program: <http://fas.org/irp/offdocs/direct.htm>, accessed July 11, 2014.

3. This message triggers preliminary discussions in the national security establishment (DoS, DoD, and NSC), among officials who deal with the region where country X is;
4. Officials from these agencies and representatives of the CIA meet in a group at the assistant secretary level;
5. The group decides who will draft the Interagency Study, its content, and the division of labor;
6. The draft of the study is developed (this can take several days or week), circulated for coordination, and the final version is forwarded to the National Security Advisor;
7. The President is informed of the initiative and, if he approves, issues the Review Directive (RD);
8. The classified RD, which defines the problem and identifies who will deal with it, goes to relevant agencies;
9. The CIA prepares the National Intelligence Estimate for country X;
10. Both DoD and the Office of the Secretary of Defense's International Security Affairs begin work on the military aspects of the policy;
11. DoS addresses the potential involvement of allies, international organizations, and informs relevant Congressional committees of the study;
12. When the RD process is complete, the NSC makes a recommendation to President;
13. If the President reaches a decision, it is announced in a Decision Directive (DD) to all agencies; if not, he takes no action and the RD expires without DD (this is very often the case).

This cumbersome process can easily take months, and in the end produce no result despite weeks of feverish activity in multiple agencies.

4 The Public, Trusted Elites, and the Media

Almost everyone seems to agree that in a democracy the opinions of citizens should play some role in shaping foreign policy. Few seem to agree on whether this is achievable and, even if it is, whether this role is important enough or whether we can identify the channels through which such influence is supposed to be carried. It seems fairly evident that the government both reacts to and manipulates public

opinion. If public opinion matters to the government — and we shall explore some reasons that it does — then the government will attempt to present itself in a favorable light and either frame the issues for public debate in a manner that might influence the citizens or engage in propaganda efforts to sway opinion in some particular way. At the very extreme, the government may choose to obfuscate information, prevent public access and scrutiny of its policies, or even indulge in deliberate disinformation.

One might begin by wondering whether the opinion of citizens should influence foreign policy at all. The contemporary view that this should be so and that democracy is the best achievable form of government was not always widely shared. In fact, one might worry that public opinion is highly charged emotionally — which means that its demands are probably not going to reflect deliberation and much thought about complicated trade-offs that every policy invariably entails — and very volatile — which means that its demands might swing from one extreme to another, inducing instability and unpredictability in foreign policies. As Walter Lippmann famously wrote,

The unhappy truth is that the prevailing public opinion has been destructively wrong at the critical junctures. The people have impressed a critical veto upon the judgments of informed and responsible officials. They have compelled the government, which usually knew what would have been wiser, or was necessary, or what was more expedient, to be *too late with too little, or too long with too much*, too pacifist in peace and too bellicose in war, too neutralist or appeasing in negotiations or too intransigent. Mass opinion has acquired mounting power in this country. It has shown itself to be a dangerous master of decision when the stakes are life and death.³⁸

The anti-dote to this irrationality and instability would, presumably, be high-level elite-driven politics in general and cabinet-level decision-making with scant regard for public opinion in particular.

The problems with citizen influence in foreign affairs are only exacerbated by revelations from opinion poll after opinion poll that show the American public as being ignorant of very basic facts — such that China has a communist government or that Ukraine does not border Canada — as it would be difficult to imagine anyone with such fundamental gaps in knowledge having meaningful opinion on what U.S. foreign policy should be toward China or Russia. This is not asking about esoteric and highly specialized facts, but things that presumably every American with passing interest in government affairs should care about. For all the harping about U.S. casualties in Iraq, in 2007 only 55% of the American public was aware that about 3,000 U.S. troops had died in that war. And how is one supposed to take seriously public opinion about responding to the ISIS onslaught in Iraq in 2014 when barely

³⁸Walter Lippmann. 1955. *The Public Philosophy*. New York: Atlantic-Little Brown, p. 20 (emphasis added).

32% are even aware that Sunni and Shia are two branches of Islam?³⁹ With such shaky grasp on facts, the public's opinion is also generally lacking in structure or coherence. Efforts to uncover correlations among responses to different issues that have been quite successful with educated elites have generally proven ineffective with the mass public.

While some have rushed to conclude that this means that the mass public have essentially “non-attitudes”, others have been more reserved, noting that when it comes to significant foreign policy events — wars, crises, or major confrontations — changes in public opinion seem to be readily explicable. For example, in both Korean and Vietnam wars, public support for the U.S. war effort decreased as American casualties mounted. This might be too simplistic a heuristic with which to assess the merits of foreign policy, but it appears that the public was using it, and so one can understand the shift in its mood. Post-Vietnam surveys have also show consistently stronger public support for use of force to induce opponents to change their foreign policies than to interfere in their domestic politics. Thus, the public might not be as volatile or irrational as pessimists have asserted.

Thus, on one hand we are confronted with the undeniable fact that the American public knows very little about foreign affairs, economics, or geography. It is even less informed about specifics about conflicts, foreign leaders, weapons, or treaty obligations. On the other hand, we also know that the public does express opinions. This suggests that when the public forms its opinions, it will use **simple heuristics** to make inferences about desirability of some action and employ a few general beliefs to guide their thinking in broad terms. One's attitudes toward military intervention might be influenced by one's core values and their related postures (morality of war, isolationism) than by analysis of the specifics pertaining to the particular action, its costs, its risks, and its expected benefits. Even more importantly, it might be determined by the opinions of **trusted political elites**, especially as reflected in the mass media. These informational shortcuts allow the public to develop and hold coherent views about foreign policy even though few citizens actually bother to analyze the facts themselves.⁴⁰ For example, many studies have confirmed the existence of the **rally-round-the-flag** phenomenon: a burst in support for the president and a surge in patriotism when the U.S. uses force abroad. However, the strength of this effect tends to dissipate when the public receives information that contradicts the position taken by the administration, especially when there is visible serious debate on the merits of the policy among the elites. Not surprisingly, people tend to favor the views expressed by elites that belong to the same political party as they

³⁹PewResearchCenter. 2007. “What Americans Know, 1989–2007: Public Knowledge of Current Affairs Little Changed by News and Information Revolutions,” <http://www.people-press.org/2007/04/15/public-knowledge-of-current-affairs-little-changed-by-news-and-information-revolutions/>, accessed July 10, 2014.

⁴⁰Since citizens choose who to trust, the core values probably have an even stronger effect than one might suspect because they determine who citizens will choose to listen to.

do.

In such a low-knowledge and low-information environment where triggering a particular simple heuristic might be sufficient to sway the opinion of broad swaths of the mass public, there is great potential for shaping or, in the extreme, manipulating that opinion. Political elites recognize the informational advantage they have over the mass public, which gives them incentives to take the lead in framing the issues to achieve their desired ends. But for elites to have any influence on public opinion, their views and the cues they provide have to travel to the public. How do political elites communicate with the mass public?

The answer, of course, is the **mass media**, which collects, frames, and disseminates information for public consumption.⁴¹ There is some disagreement about the extent to which the media plays an active role in framing of the issues. The traditional view is that the media transmits elite messages without altering the framing elites choose. It indexes its coverage to elite rhetoric in Washington. Since the public is usually ill-informed, it cannot object to this, and as a result the media tends to cater to the interests of elites. It might be excessively friendly in order to maintain access to especially prominent decision-makers, and it might be uncritical of views emanating from sources journalists like. The potential for bias is clear in media outlets that explicitly subscribe to some partisan positions but it can also be present in subtler form in nominally non-partisan outlets.

The rise of partisan media outlets suggests that the media might not be a simple transmission mechanism for elites to communicate their views to the public. It might be dependent on elites for its supply of information but simultaneously depend on the public for the demand for its product. In this framework, the media will have little interest in transmitting elite messages with intact framing if there is insufficient appetite among the public. Instead, the media might seek to reframe the issues in ways that are more likely to pique the interest of consumers. Thus, the media might not conceive of its primary mission in terms of informing the public or conveying elite messages at all. It might instead respond to what it believes the public wants, exacerbating tendencies already present there. For example, early in conflicts — when the really-round-the-flag effect is expected to be strong — the media might cater to the nationalist impulse of the public and privilege messages that amplify it. If the media tried to counter this, it might find itself shut off from the White House and its executive agencies (who will resent what they will perceive as an attempt to undermine their policies) precisely when it is losing the public (which does not want to hear what it will consider unpatriotic coverage). When the public seems to demand a dominant voice in policy, which will usually be that of the government, the media might not have incentives to provide anything else, which

⁴¹See Matthew A. Baum and Philip B.K. Potter. 2007. "The Relationships Between Mass media, Public Opinion, and Foreign Policy: Toward a Theoretical Synthesis." *Annual Reviews of Political Science*, 11: 39–65. doi://10.1146/annurev.polisci.11.060406.214132.

means that it will fail in its supposedly primary mission to inform the public.⁴²

When there is significant disagreement among elites themselves, the media can amplify these by disseminating them widely. It might choose to frame them in terms of local interest, which will get the attention of otherwise disengaged Americans, and perhaps tack on the larger issues to that. In doing so, it might reach segments of the public that would have normally been excluded from the information flow. The media can also carry local news and collate national opinion in a form that elites can digest. Decision-makers often rely on the media for information and even for analysis. Important publications like *Foreign Affairs*, the *New York Times*, and the *Wall Street Journal* (among others) can influence leaders about foreign policy issues. The news, editorials, and opinion pieces they publish — all of which might rely to one extent or another on information gathered by the media itself — often find their way in the form of newspaper clippings into archives of presidents and cabinet members. Thus, the media can function as more than a conduit for information. It can actually influence policy more or less directly, and when this influence relies on public opinion, which could have itself been partially generated by media coverage, what the public has come to believe will matter.

Overall, there is a complicated feedback loop between the government, the media, and the public, and it might be very difficult to determine the extent to which any one of these actors is influencing or is influenced by the others. The government will try to engage the public in order to manage its opinions effectively, but its ability to do so will be severely impaired when there are significant disagreements among elites about the policy. In its effort to secure demand for its services, the media will transmit these disagreements to the public. While particular outlets might still be lapdogs, overall the media will function as a watchdog. The resulting reactions of the public are something that the government will try to anticipate when it formulates policy, and as a result the public's opinions will matter both in retrospective (when it approves or disapproves of some policy, generating pressure to continue or quit) and prospective (when its reactions are anticipated and the policy is preemptively altered to avoid undesirable ones) senses.

⁴²The media is also supposed to have a “watchdog” mission but since reporters rely on official sources and often spend years amid the people who provide them with information, the media tends to hew closely to the line peddled by these elites without much, if any, critical analysis.