

# Democracy and the Making of Foreign Policy

By John Gershman | February 3, 2006

The recent attention focused on how American foreign policy can promote democracy abroad has obscured something just as fundamental and controversial. How does U.S. foreign policy influence democratic values, practices, and institutions at home? And what roles do and should democratic processes play in shaping America's foreign policy? The aim of this brief discussion paper is to raise some of these questions as a way of contributing to a strategic dialogue on these less prominent dimensions of the relationship between democracy and U.S. foreign policy.

## I. Perspectives

It's worth beginning with what kind of democracy we have in mind. Concepts of deliberative democracy emphasize that policymakers are expected to reflect the deliberate and informed opinions of the citizenry. If public opinion reflects the deliberate and informed opinion of the citizenry, then divergence between the opinions of citizens and leaders is a problem either because policymakers are not taking into account the informed opinion of citizens or because citizens have uniformed opinions. Populist versions of democratic theory emphasize popular sovereignty and electoral accountability.

Elite theories of democracy conjoin with realist theories of international relations in the view that policy and public opinion need not coincide. Suspicious of citizen competence in foreign policy matters, they are wary of the push and pull of parochial interests that make it impossible to forge a coherent and consistent picture of the national interest. Foreign policy is best formulated and implemented by experts. The historian Walter LaFeber calls this "the Tocqueville problem in American history." How can a democratic republic, whose vitality rests on the pursuit of individual interests with a minimum of central governmental

direction, create the necessary national consensus for the conduct of an effective, and necessarily long-term, foreign policy?"<sup>1</sup>

Does a gap between public opinion and the opinion of policymakers reflect a "democratic deficit" in foreign policy? Depending on the theory of democracy one espouses, such gaps may be of more or less concern.

In practice, Congress usually ignores polls and responds to vocal publics as if they were the majority. Public opinion appears to enter the policy process merely to legitimate goals and policies chosen for other reasons.

The view is not a new one. Writing in the 1830s, Alexis de Tocqueville in *Democracy in America* worried about the ability of the U.S. political system to carry out effective foreign policy which in his view demanded secrecy and the rapid response of professionals, not consigned to the reckless and uninformed processes of democratic deliberation.<sup>2</sup>

In the same vein Walter Lippman complained in the 1950s that public opinion had "compelled the governments, which usually knew what would have



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been wiser, or was necessary, or 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 too appeasing in negotiation, or too intransigent.”<sup>3</sup> Twenty years later George Kennan added that “Our actions in the field of foreign affairs are the convulsive reactions of politicians to an internal political life dominated by vocal minorities.”<sup>4</sup> And in 1985, Peter Rodman, now the Assistant Secretary of Defense for International Security Affairs, claimed that Congress could be an “artificial institutional drag” on the President’s ability to conduct a coherent and effective foreign policy.<sup>5</sup>

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Policymaking during the presidency of George W. Bush represents a distinctive turning point, as substantial as earlier turning points under FDR, Truman, Nixon, and Reagan. During these administrations there were significant shifts in geopolitics and each period was marked by distinctive approaches to managing key relationships and creating institutions to advance American interests. There were important changes in the way foreign policy was formulated (e.g., creation of the National Security Council under Truman) and there were important shifts in the social foundations and key foreign policy constituencies within the United States. President Bush’s approach to foreign policy has been characterized as a vanguard foreign policy:

- its animating ideas have been formulated by a very small group;
- it has been implemented in a remarkably disciplined way;
- it is based on the idea of leadership by action and representation rather than consultation;
- it seeks legitimacy in re-election rather than public support for specific policies;
- it favors executive dominance over the Congress;
- it involves a secretive style of policymaking, an unusually prominent role for vice president and his staff in foreign policy, and a reliance on the military as the primary instrument of foreign policy.<sup>6</sup>

The Bush administration’s foreign policy leadership has systematically chosen to sidestep traditional foreign policy mechanisms and create their own. These have reduced the deliberation processes common to earlier administrations.

### **Some Broad Animating Questions about U.S. Foreign Policy and U.S. Democracy**

What are the consequences of American global primacy and the prosecution of the “global war on terror” for American democracy?

What role is there for think tanks as idea creators and connectors to the public? Is it correct that the large majority of foreign policy think tanks have been marginalized from any kind of influence?

Does this marginalization go beyond traditional party alignments?

Is there a democratic deficit in U.S. foreign policy? If so, why is it not decisive in electoral outcomes?

Has the media played a constructive role facilitating constructive policy debates, shaping public opinion, and/or communicating that opinion to policymakers?

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## II. Foreign Policy and Democracy

Four main issue areas illustrate how contemporary U.S. foreign policy shapes and is shaped by democracy at home. These are:

- U.S. foreign policy and civil liberties at home
- Militarization of U.S. security policy and the democratic control over the use of military force
- U.S. foreign economic policy, inequality, and democracy
- U.S. foreign policy, international law, and global governance—the potential complementarities and trade-offs between national and popular sovereignty

### *A. U.S. Security Policy and Civil Liberties*

The dominant current in foreign policy thinking holds that U.S. security policy has either deterred or defended against threats to the United States, and that any trade-offs of liberty for security have been justified.<sup>7</sup> A subordinate current argues that there have been periods of unnecessary and destructive erosions of civil liberties and democratic accountability in the name of security, typically framed either as a trade-off between security and civil liberties, or a trade-off between the need for a rapid response to security threats versus the inherent slow process of democratic decision-making.

The security versus liberty debate has revolved around two main axes: first, the appropriate scope of freedom of speech and scope of acceptable political dissent in wartime; and, second, the appropriate levels of government secrecy or transparency.

The issues that have attracted the most public attention are the USA PATRIOT Act, court cases regarding the rights of “enemy combatants,” the use of torture and degrading interrogation

techniques, and domestic surveillance of U.S. citizens by the National Security Agency. The debates over security versus liberty in foreign policy date to the first conflicts of the young U.S. republic in the late 18th century, and have continued through the present in the current context of debates over the “war on terror” and the invasion and occupation of Iraq.<sup>8</sup>

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Freedoms sacrificed in wartime appear not to have been lost forever but later reclaimed, often after decades of activism. A danger of the “global war on terror” is that it is framed as an endless war, and as such the “state of emergency” that is used to justify restrictions on civil liberties becomes institutionalized.

### Freedom of Speech and Dissent

In the first half of the 20th century, policy debates over the relationship between security and democracy focused on the criminalization of dissent and stigmatization of particular domestic movements (anarchism, socialism, and communism or fascism) as threats to U.S. democracy.

During the Cold War they focused on the impact of the “national security state” on civil liberties and the openness of political debate (McCarthyism, loyalty clause) and restrictions on immigration (i.e., the McCarran Walter Act). In the post-9/11 period

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advocates of civil liberties attacked similar restrictions on political discourse and forced the sunset provisions in the USA PATRIOT Act.

Since the 9/11 attacks, the greatest divide has been between rights granted to citizens and to immigrants. Provisions of the Patriot Act that granted new authority to the executive branch to act against non-citizens were not subject to the sunset clause.

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The security/human rights balance is an eternal tension in American democracy. Traditionally, the chief threats to liberty seem to emanate from a combination of an imperial executive branch combined with legislative and judicial institutions that are unwilling or unable to exercise checks on executive power. This highlights the important watchdog role that citizens must play.

### Government Secrecy

Transparency and access to information are essential for citizens to be able to make informed decisions about policy and to be able to hold officials accountable. The Bush administration has been criticized by “right to know” and transparency advocates for being excessively secretive even pre-dating the 9-11 attacks and the war in Iraq. The emphasis on secrecy coincides with an approach to

policymaking that strengthens executive autonomy and aims to weaken the separation of powers. Congress and the courts have both been struggling to find the right mix of government secrecy and transparency that balance effective decision-making and accountability in foreign policy in an era of new threats to the nation.

#### Some Animating Questions

#### on Security and Civil Liberties

What is the right balance between security and liberty that the post-9/11 world demands of U.S. citizens and non-citizens living in the United States?

Is the U.S. a nation at war and if so is this a persuasive rationale for imposing new restrictions on public expressions of dissent and restricting civil liberties in ethnic and/or religious communities deemed potential enemies of the United States?

Do the demands of combating terrorism require that we allow the police and the military to engage in acts which would otherwise be considered torture?

Do new immigration restrictions inhibit the free flow of ideas and reduce the richness of our educational institutions and public dialogue in ways that undermine democracy?

### B. *The Military*

A second set of issues involves the relationship between the military, foreign policy, and U.S. democracy. They bring to light three broad issues.

The first is the increasing reliance on the military as the primary tool of foreign policy, what some have called the “militarization” of foreign policy.

The second is the declining power of the Congress to authorize the use of military force. A recent bipartisan commission recommends that Congress should replace the War Powers Resolution with legislation that fairly acknowledges the president’s defensive war powers, omits any arbitrary general

time limit on deployments of force, reaffirms the constitutionally-derived clear statement rule for use-of-force bills, and prescribes rules for their privileged and expedited consideration.<sup>9</sup>

The third is the erosion of democratic accountability by the growing privatization and outsourcing of military operations. The risk of the widespread and expanding reliance on private military forces is that they allow governments to carry out actions that would not otherwise be possible, legal, or gain legislative or public approval. They do allow governments to meet unrecognized or unpopular strategic needs. But they also disconnect the public from foreign policy and remove actions from popular oversight. Contractor casualties and kidnappings are not listed on public rolls and are rarely mentioned by the media. Contracts for private military firms are also not subject to Freedom of Information Act requests.

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### *C. Economic Policy, Inequality, and Democracy*

A key aspect of the connection between democracy and foreign policy is economics. Who influences foreign policy outcomes? Do economic inequalities matter?

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#### **Some Animating Questions**

#### **on Military Power and Democracy**

**Is there an increased reliance on the military and military power as the currency of choice for foreign policy? What are the costs and benefits?**

**Is the current framework for congressional-executive relations able to provide both accountability and effective deployment of military force to meet real threats?**

**What is the most effective mechanism for insuring democratic control over the use of military force?**

**Does the need to combat terrorism require a reduction of Congress' historical role (if unevenly exercised) as the body entrusted with declaring war or authorizing the use of military force?**

**Is there a difference between declaring war and the use of force in the kind of surgical operations outlined by the Pentagon's new military plan?**

**Has the War Powers Act failed to serve as an effective mechanism for checks and balances on the deployment of military forces? Has the Congress defaulted from its role in authorizing force and what kind of institutional or other reforms would be appropriate to have it play a more effective role?**

**What is the net impact on U.S. democratic values and institutions of the growing reliance on private military firms?**

labor, and the general public.<sup>10</sup> A recent study suggests that:

- Business influence is fairly large and influential across institutional groups of policymakers (especially executive branch and Senate officials) and issue areas;
- Experts also have an important influential role, although the scope of their impact is contested.
- Labor leaders appear to exert a consistent (if secondary) influence on policy makers, especially on members of the House of Representatives and especially on economic issues.
- Mass public opinion, when controlled for the influence of organized interest groups, has

relatively little effect on policymakers with the partial exceptions of House members and in economic policy.

Increasingly unequal participation in democratic politics is another dimension. Inequality has deepened since the 1970s, not only in terms of voting but in other forms of civic and political engagement.<sup>11</sup> The impact of globalization appears to have reduced the role and influence of organized labor. And free trade agreements tend to enhance the power of international organizations or dispute resolution mechanisms (i.e., the WTO, NAFTA) against the regulatory power (often framed as the popular or national sovereignty) of U.S. federal, state, and local governments.

The extent to which foreign economic policy (whether free trade, globalization, or protectionism) worsens inequality (even if it raises overall welfare), the worse it is for the quality of democratic representation.

### Some Animating Questions

#### on Democracy and Foreign Economic Policy

**Analysts argue that globalization, national sovereignty, and democracy in their full-blown senses are not compatible; you can only have two. If so, which is better to match with democracy: globalization or national sovereignty?**

**Is the issue of inequality and democracy really more an issue of domestic rather than foreign economic policy? What policies would have the most immediate effect?**

**Is there an effective alternative to Trade Promotion Authority (Fast Track) for congressional involvement in trade policy?**

#### *D. International Law, Global Governance, Foreign Policy, and Democracy*

The relationship between international law, global governance, foreign policy, and democracy is a new arena of debate. Many see the expansion of global

governance, international law, and human rights as positive for democracy at home and abroad. Some wish to constrain the U.S. government's authority by embedding it more deeply in the architecture of international law at the same time that they are skeptical of embracing international economic organizations like the WTO and bilateral and regional trade and investment agreements. A prime example is the disagreement over U.S. membership in the International Criminal Court.

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Others see international agreements and the mechanisms of global governance as serious constraints on the exercise of U.S. power unless they can be clearly demonstrated to serve immediate American interests. They are concerned that the internationalization of decision-making undermines the U.S. Constitution and creates new constraints on the exercise of U.S. sovereignty.

### III. Democratizing Foreign Policy

So what are the implications for those aspiring to influence the course and conduct of U.S. foreign policy? What are the best avenues for democratic participation in the making of foreign policy? Would a more democratic foreign policy be a better foreign policy?

These questions can be approached in two ways. One is to focus on the *ends* of foreign policy. In

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this vein a democratic foreign policy is one that reflects democratic values. Minimally, this means respect for civil liberties and democratic institutions at home and abroad. More expansively, it means active promotion of democracy abroad through means including the use of force. A second approach is to focus on the *process* of formulating foreign policy, one that is more participatory, including a more active role for both elected officials (particularly legislative officials) as well as mechanisms for including the views of citizen groups. We will focus on the latter.

### *Existing Pathways*

What are existing mechanisms for democratic participation in the making of foreign policy? Elections are the clearest forms of citizen participation, but there are other institutionalized mechanisms. Much of the debate over Iraq policy has really involved issues of accountability, and in particular, the exercise (or lack thereof) of checks and balances by the legislature and the judiciary on the executive.

### *The Congress*

The Congress has varied greatly in terms of its assertiveness as a foreign policy actor. It perennially plays a principal role on issues such as trade policy, economic sanctions, placing conditions on, or explicitly earmarking foreign aid. In recent years it has become more assertive with respect to the executive branch on issues such as civil liberties, torture, and debates over the use of force.

In the trade area, congressional leaders could play a more active role upstream in the negotiating process. For example, Tokyo Round negotiators claim that there was far more involvement of congressional staff in those talks—especially the presence of congressional staff in Geneva for informal

consultation—than existed during the Uruguay Round or subsequent rounds.

Strengthening Congress involves strengthening the role of relatively impartial policy analysts in providing congressional staff with the necessary information. One possibility is to expand the Congressional Budget Office's role, either by expanding it or creating a new office, to deal with trade and other foreign policy issues. The Congress used to have an Office of Technology Assessment which provided an important independent source of information on a range of issues, some of which related to foreign policy. A more grandiose proposal on trade issues would be to create a Congressional Trade Office which could also coordinate a more effective process of oversight on issues relating to regulatory harmonization.<sup>12</sup>

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Trade Promotion Authority was originally developed to sidestep the rent seeking that Congress would invariably be drawn to in considering trade and investment legislation. However, this has now become an obstacle to effective deliberation on trade issues.<sup>13</sup> New mechanisms for enabling Congress to play a stronger role on trade and investment policy are needed.

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## The Courts

Although the judiciary is routinely deferential to the executive branch in terms of the content of U.S. foreign policy, it has been more assertive than Congress in identifying the outer limits of the executive branch's ability to weaken democratic and civil liberties protections. This has involved everything from denial of due process to "unlawful combatant" detainees, as well as the basic labor rights of employees of the Department of Homeland Security. The courts play other roles in terms of giving citizens a direct role through provisions such as the Alien Tort Claims Acts and legislation that enables victims of terrorist attacks to sue perpetrators, conspirators, or state sponsors of such acts.

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## Executive Branch

Outside of the top two elected officials, the most common forms of citizen participation involve lobbying and participation on advisory committees and various boards such as the Defense Policy Board. These bodies rarely offer a broad spectrum of views. For example, USTR Advisory Committees are required by law to represent a fair balance of views. To take one example, however, seven out of 15 members of the Advisory

Committee on Intellectual Property represent the pharmaceutical industry, while there are no representatives from public health experts or consumers of prescription drugs. As of August 2005, the pharmaceutical industry held 20 seats on 8 committees, and representatives of public health organizations hold none.<sup>14</sup>

As a result of these shortcomings, as Susan Aaronson points out in *Redefining the Terms of Trade Policymaking*, trade officials have fumbled the opportunity to "use the advisory system to build a broader public constituency in support of economic internationalism."<sup>15</sup>

## States, Federalism, Democracy, and Foreign Policy

State and local government involvement in "foreign policy" is not new. In the 1960s, states occasionally forbade government purchases from communist countries or required that most state materials be bought domestically. In the 1980s, some cities declared themselves "nuclear-free zones" and some cities and states enacted divestment measures against apartheid South Africa. Again, although the constitutionality of such ordinances was questioned, few court challenges were brought.

As the Cold War and apartheid ended, so did the forays of most states and local governments into foreign policy. This assertiveness came back beginning in the mid-1990s when China, Burma, Nigeria, North Korea, Cuba, and Switzerland were targeted by state and local sanctions adopted, despite State Department opposition. Many U.S. companies, faced with the choice of abandoning overseas markets or losing lucrative government contracts, successfully challenged the statutes in court.

Except for a few central foreign relations powers—such as declaring war and making treaties—the

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Constitution does not extinguish state authority to influence foreign affairs. Instead, it gives the president and Congress broad powers to decide when state acts harm the national foreign relations interest and thus must be pre-empted.

States thus can serve as useful “laboratories of experimentation.” As in domestic policy areas such as health, they are experimenting where the federal government is inactive or ideologically opposed to innovative policy steps on issues ranging from importing prescription drugs from Canada to climate change. On trade issues, some municipal governments are using their power of procurement for fair trade ordinances.

### *Designing a More Democratic Foreign Policymaking Process*

A range of proposals for democratizing foreign policy, some more ambitious than others, have emerged. Columnist Eric Alterman has called for elected foreign policy advisory panels. There are a range of proposals for municipal and state-level foreign policies, a host of voices calling for expanding congressional and/or judicial influence, and proposals for expanding citizen participation and access to the foreign policymaking process.<sup>16</sup>

There are two main avenues for thinking about democratizing foreign policy: checks and balances and more expansive processes of effective and informed deliberation.

#### *Strengthening Checks and Balances*

A first step is to strengthen the checks and balances between Congress and the judiciary on one hand, and the executive on the other. The current period has witnessed a substantial shift in the autonomous exercise of power by the executive branch.

Cass Sunstein at the University of Chicago has noted that “A defining feature of these understandings is a strong commitment to inherent presidential authority over national security, including a belief that in crucial domains the president can act without congressional permission, and indeed cannot be checked by congressional prohibitions.” These efforts can be checked through a combination of intellectual challenges to the efforts to expand the power of the executive in the foreign policy realm (especially security) and strengthening institutional checks and balances to prevent the emergence of an imperial executive. But citizen action will be central to such a process.

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The third dimension is for U.S. citizens to place greater demands on their elected officials for accountability as well as to participate in an informed manner. This requires citizens to actually be informed, an area where foreign policy NGOs, think tanks, and the media have largely failed. Greater efforts in these areas are essential.

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#### *Enhancing Effective and Informed Deliberation*

There are a few overarching changes that would reinforce both processes. The first involves an expansion of the transparency of foreign policymaking and implementation. This is an essential condition for the effective exercise of informed deliberation and democratic accountability.

The second would be a strengthening of the capacities of political parties as arenas for deliberation.

## Some Animating Questions

### on Democratizing U.S. Foreign Policy

**At the level of social foundations, what role do the corporate sector and civil society organizations play in influencing American policy and as international actors in their own right?**

**Are religious organizations playing a more important role in not just influencing the terms and vocabulary of foreign policy discussion but also in influencing decision making?**

**What are the pathways for citizens and civil society organizations to influence U.S. policy?**

**At the level of political philosophy, can and should U.S. foreign policy be formulated in a more democratic manner?**

**Has congressional and judicial oversight of the executive declined? Would more of it lead to better policy and better democracy?**

**Are state and local governments of declining or growing importance? Would a greater/lesser role by subnational governments enhance the democratic nature of foreign policymaking? Would it be "better" foreign policy?**

**Given the recurring evidence that Americans are poorly informed about many aspects of U.S. foreign policy and international affairs, is democratizing foreign policy a sound objective? Why not focus on expanding the role of informed experts?**

**If expanding informed citizen participation is a goal, what efforts and programs are necessary to make such outcomes possible?**

The weakness of political parties in the United States removes a key mediating institution that is the site of extensive discussion and debate in other industrial democracies. There are no illusions here; weak parties have long been bemoaned and little has been done to strengthen them.

The third dimension is for U.S. citizens to place greater demands on their elected officials for accountability as well as to participate in an informed manner. This requires citizens to actually be informed, an area where foreign policy NGOs, think tanks, and the media have largely failed. Greater efforts in these areas are essential.

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## END NOTES

- <sup>1</sup> See also, Zbigniew K. Brzezinski “War and Foreign Policy, American-Style,” *Journal of Democracy*, Vol. 11, No. 1, January 2000, pp. 172-178.
- <sup>2</sup> Toqueville noted that in the conduct of foreign affairs “democratic governments do appear decidedly inferior to others” for they found it “difficult to coordinate the details of a great undertaking and to fix on some plan and carry it through with determination” while having “little capacity for combining measures in secret and waiting patiently for the result.” Alexis de Toqueville, *Democracy in America* (Garden City, NY: Doubleday, 1969), pp. 228-229. For a restatement by Walter LaFeber “Democratic republics, whose vitality rests on the pursuit of individual interests with a minimum of central government direction, create the necessary national consensus for the conduct of an effective, and necessarily long-term, foreign policy,” Walter LaFeber, “Jefferson and American Foreign Policy,” in *Jeffersonian Legacies*, Peter S. Onuf (ed) (Charlottesville: University of Virginia Press, 1993), pp. 376-377. For further discussion of Toqueville see Melvin Small, “Public Opinion,” in Alexander DeConde (ed), *Encyclopedia of American Foreign Policy*, 3 volumes, (NY, 1978): Vol. 3: pp. 844-855. Walter Lippman, *Public Opinion* (NY, 1922) and George Kennan, *American Diplomacy, 1900-1950* (Chicago, 1951).
- <sup>3</sup> Walter Lippman, *Essays in Public Philosophy* (Little Brown: Little Brown, 1955), p. 20.
- <sup>4</sup> Quoted in Smith (2000, p. 5) *op cit*.
- <sup>5</sup> Peter Rodman, “The Imperial Congress,” *The National Interest*, Fall (1985): pp. 26-35, quote at p. 28. He continues to argue that “A strong Congress can block or constrain it; it cannot impose a coherent or vigorous foreign policy of its own,” p. 33.
- <sup>6</sup> For overall views of the Bush administration’s agenda see Jim Mann on *The Rise of the Vulcans*, and James Lindsay and Ivo Daalder, *America Unbound* (Washington, DC: Brookings, 2003). On the role of the military as a tool of foreign policy see, Dana Priest, *The Mission: Waging War and Keeping Peace with America’s Military* (NY: Norton, 2003).
- <sup>7</sup> While there were clearly threats to U.S. national security prior to the 20th century, U.S. military operations also involved imperial acquisition of territory and subjugation of Native Americans, events which arguably extended beyond the defense of the United States. This is neither to argue that U.S. foreign policy since the 20th century has been defensive in nature, nor that all policies pursued in the name of security of the United States has been conducive to democratic institutions and processes, only that the *dominant* interpretation of U.S. foreign policy has been in this vein.
- <sup>8</sup> For an excellent overview of the issue of free speech in conditions of wartime, see Geoffrey R. Stone, *Perilous Times: Free Speech in Wartime* (NY: Norton, 2004).
- <sup>9</sup> Constitution Project, *Deciding to Use Force Abroad: War Powers in a System of Checks and Balances* (Washington, DC, 2005) available at [http://www.constitutionproject.org/pdf/War\\_Powers\\_Deciding\\_To\\_Use\\_Force\\_Abroad1.pdf](http://www.constitutionproject.org/pdf/War_Powers_Deciding_To_Use_Force_Abroad1.pdf). For more background and discussion see Peter Irons, *War Powers: How the Imperial Presidency Hijacked the Constitution* (NY: Metropolitan, 2005), Eugene B. Kogan, *The War Congress: Shouldering the Responsibilities of a U.S. Global Role* (Washington, DC: Americans for Democratic Action Education Fund, 2005) at <http://www.adaction.org/warcongress.pdf>, Michael J. Glennon, “War and the Constitution,” *Foreign Affairs*, Spring (1991): pp. 84-101, L. Fisher and D. G. Adler (1998) “The War Powers Resolution: Time to Say Goodbye,” *Political Science Quarterly*, 113:1—20, Louis Fisher, *Presidential War Power*, 2nd edition, revised, (Lawrence: University Press of Kansas, 2004) and H. Jefferson Powell, *The President’s Authority over Foreign Affairs: An Essay in Constitutional Interpretation* (Durham, NC: Carolina Academic Press, 2002).
- <sup>10</sup> Lawrence R. Jacobs and Benjamin Page, “Who Influences U.S. Foreign Policy,” *American Political Science Review*, 2005, 99(1): pp. 107-122.
- <sup>11</sup> See discussion and citations in Task Force on Inequality and American Democracy, American Political Science Association “Memo on Inequality in Public Policy,” [www.apsanet.org/imgtest/feedbackmemo.pdf](http://www.apsanet.org/imgtest/feedbackmemo.pdf).
- <sup>12</sup> For sources and more discussion see Bruce Stokes and Pat Choate, *Democratizing U.S. Trade Policy* (NY: Council on Foreign Relations, 2001) at [http://www.cfr.org/content/publications/attachments/DemTrade\\_TF.pdf](http://www.cfr.org/content/publications/attachments/DemTrade_TF.pdf) and also see Bruce Stokes, C. Fred Bergsten, William A. Niskanen, Jeff Faux, and Pat Choate, *Future Visions for U.S. Trade Policy* (NY: Council on Foreign Relations, 1998) at [http://www.cfr.org/content/publications/attachments/Trade\\_Policy.pdf](http://www.cfr.org/content/publications/attachments/Trade_Policy.pdf). In particular Stokes and Choate (2001: vii) argue that “Gone were the days when a small group of self-selected individuals, no matter how diverse, could agree on a new national trade policy and then simply expect the public to accept it. Trade now affects the lives of an unprecedented number of Americans. They want and deserve a greater say in formulating U.S. trade policy. ... We believe that if the trade policymaking process can better reflect the interests of diverse stakeholders—big and small businesses, environmentalists, consumers, organized labor, and others—the trade policy that will flow from that process is likely to have broad public support.”
- <sup>13</sup> It’s also a mistake to think that trade promotion authority is essential for trade agreements. While it’s unlikely to see large free trade agreements passed without TPA, it’s wrong to believe that no trade agreements would be passed. During the Clinton era, from 1997-2000, when TPA (then called fast track) was not in place, a number of trade agreements were passed as well as PNTR for China, agreements at the WTO, and the unilateral Caribbean Basin Initiative. Certainly, passage of any trade and investment agreement would be more likely if the United States implemented adequate wage, insurance, and other safety net programs to address the costs of adjustment, as well as more effective support for labor and environmental standards.
- <sup>14</sup> See discussion at <http://lists.essential.org/pipermail/ip-health/2005-August/008203.html>. Congress could strengthen protections for prescription drug consumers for example, by requiring that each of these committees include public health representation in order to achieve a fair balance of interests as required by law. The USTR could also be required to make all Advisory Committee proceedings publicly available, as opposed to their current confidential status. Finally, the USTR could be required to make public its proposals in trade negotiations. It did so with respect to the General Agreement on Trade in Services in 2003, but declined to do so in 2005. Future legislation could require the USTR to operate in a more transparent

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and democratic manner. See the Center for Policy Analysis on Trade and Health, [www.cpath.org](http://www.cpath.org), for other examples.

<sup>15</sup> See, also for example, Susan Aaronson, *Taking Trade to the Streets: The Lost History of Public Efforts to Shape Globalization* (Ann Arbor, MI: University of Michigan Press, 2001).

<sup>16</sup> Eric Alterman, *Who Speaks for America?* (Ithaca: Cornell University Press, 1998). See back issues of the now defunct *Bulletin of Municipal Foreign Policy* published by the Center for Innovative Diplomacy for more on municipal and local initiatives.

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