

WINTER 2020

The Kurdish Crisis in the Middle East

THE ZAMBAKARI ADVISORY: SPECIAL ISSUE



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Thessaloniki, Greece - October 12, 2019. A man waves a
Kurdish flag as Kurdish people take part in protest against
Turkey's military action in northeastern Syria.

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Acknowledgement

The Zambakari Advisory team extends its sincere appreciation to everyone who worked on this Special Issue. The contributors listed below share our passion and enthusiasm for the work we do to provide solutions to a changing world: Authors Louis Fisher, Andrew J. Bacevich, Rajan Menon, Graham E. Fuller and Jon Schwarz; Editorial and Production Team: Matthew Edwards, Steve Des Georges, Sandy Des Georges and Laura Mikkola.

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The Zambakari Advisory Special Issue: The Kurdish Crisis?

An Introduction

Christopher Zambakari, BS, MBA, MIS, LP.D.

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In light of President Trump's decision to withdraw U.S. troops from Syria's border with Turkey, The Zambakari Advisory is pleased to publish a series of analyses on the crisis facing the Kurds in the Middle East by Louis Fisher, Visiting Scholar at the William and Mary Law School, former senior specialist in separation of powers with the Congressional Research Service, specialist in constitutional law with the Law Library of Congress; Andrew J. Bacevich, Professor Emeritus of International Relations and History at Boston University and president of the Quincy Institute for Responsible Statecraft; Rajan Menon, the Anne and Bernard Spitzer Professor of International Relations at the Colin Powell School, City College of New York/City University of New York; Graham E. Fuller, former senior CIA official and former vice chairman of the National Intelligence Council; and Jon Schwarz, senior writer for The Intercept, First Look Media.

The announcement on October 13, 2019, by Defense Secretary Mark Esper that the Trump Administration was going to bring home the 2,000 U.S. troops deployed in Syria, set in motion a bipartisan firestorm in Washington and around the world. Liberal and conservative analysts savaged President Trump's decision for deserting the Syrian Democratic Forces (SDF) (composed largely of Kurds who fought alongside the United States in the war against the Islamic State (IS)).

In the first article, constitutional scholar Louis Fisher offers a broad socio-historical analysis of the presidential military actions that violate the U.S. Constitution, tracing the history of executive power from the Founding Fathers to current U.S. presidents. He notes that from President Truman forward, presidents have unilaterally engaged in military actions abroad, including Eisenhower's covert operations in Iran and Guantanamo. Kennedy supported the invasion of Cuba and, in violation of statutory policy, Reagan became involved in the Iran-Contra affair. Trump bombed Syria after its use of nerve gas, and assisted Saudi Arabia with military operations in Yemen. These actions and initiatives — under the U.S. Constitution — require joint action by both elected branches.

In the second article, Andrew Bacevich and Rajan Menon place President Trump's announcement to bring home 2,000 U.S. troops deployed in Syria in a larger regional and historical context, arguing that the barrage of attacks that followed Trump's decision to reduce the U.S. military presence in Syria obscures the decades-long bankruptcy of the U.S. foreign policy establishment.

In the third article, Graham Fuller argues that how successfully Turkey, Iraq, Syria and Iran handle the challenges of integrating large minorities will be a key litmus test for their own

future democratic governance. But, it is safe to say that repression and violence will not solve the Kurdish problem; ultimately, they will only hasten and escalate Kurdish demands for maximum independence. Fuller situates his analysis within the larger geopolitical landscape of the region and its implications for the U.S. and the Greater Middle East.

In the fourth article, Jon Schwarz argues that though the withdrawal of U.S. troops and corresponding criticism may feel morally egregious, this is not the first time the U.S. has betrayed the Kurds. With this new withdrawal, the U.S. has now betrayed the Kurds a minimum of eight times over the past 100 years. Schwarz explains how this dynamic has unfolded and played out, over and over, since World War I.

In the fifth and final article, intelligence veteran Fuller notes that President Trump's decision to withdraw U.S. troops from Syria's border with Turkey — as part of an ongoing process of bringing a gradual end to Washington's endless wars — is justified. He concludes that this war no longer serves any real purpose except to destabilize Syria, perpetuate its brutal civil conflict and provide an excuse to keep U.S. troops on the ground, strengthening Iranian and Russian involvement in the struggle.

These internationally respected authors make the case that to view developments in the Middle East simply as separate actions is to miss the striking relationship between events. According to Bacevich, a U.S. military historian and retired Army officer, U.S. military footprints in the Greater Middle East need to be historicized and placed within a larger archival context. This allows us, he says, to “appreciate not only how they relate to one another, but also the extent to which U.S. policy in what I call the Greater Middle East has produced an epic failure.”¹

In summation, the authors we present in this series of analyses agree that Congress' failure to limit military interventions and the unconstitutional usurpation of legislative power by the executive branch have granted U.S. presidents vast constitutional authority as commanders in chief and chief executives, as well as vast discretion to use lethal force in the national interest.

About the Author

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¹ Bacevich, Andrew J., and Stephen Kinzer. "Matters of Choice." *Boston Review*, <http://bostonreview.net/us/andrew-j-bacevich-interviewed-stephen-kinzer-war-greater-middle-east>

Presidential Military Actions That Violate the Constitution

Louis Fisher, Ph.D.

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The framers of the U.S. Constitution rejected the British model that allowed a single executive to invoke the war power. John Locke in 1690 spoke of three categories of government: executive, legislative and federative. The latter, placed solely with the executive, covered “the power of war and peace, leagues and alliances, and all the transactions with all persons and communities without the commonwealth.”¹ Article I of the U.S. Constitution rejected that model by placing many external powers expressly in Congress: the power to declare war, raise and support armies and navies, make rules for the military, grant letters of marque and reprisal (authorizing private citizens to engage in military operations), and Senate authority to approve treaties.

During debate at the Philadelphia Convention on June 1, 1787, John Rutledge agreed that executive power had to be placed in a single person but “he was not for giving him the power of war and peace.”² James Wilson did not consider “the Prerogatives of the British monarch as a proper guide” to define presidential power. Some of those powers, he said, were of “a Legislative nature,” including “that of war & peace.”³ Edmund Randolph expressed concern about executive power, calling it “the foetus of monarchy.” He did not want America “to be governed by the British Governmt. as our prototype.”⁴

As the debate continued on August 17, James Madison and Elbridge Gerry recommended that the language be changed from “make war” to “declare war,” leaving with the President “the power to repel sudden attacks.”⁵ In support, Roger Sherman said the President “shd. be able to repel and not to commence war.” To Gerry, he “never expected to hear in a republic a motion to empower the Executive alone to declare war.” George Mason said he was “agst giving the power of war to the Executive, because not <safely> to be trusted with it.” He was for “clogging rather than facilitating war; but for facilitating peace.”⁶ The amendment by Madison and Gerry was accepted.

At the state ratifying conventions, objections to independent presidential war initiatives

1 John Locke, *Two Treatises of Civil Government* (E.P. Dutton & Co., 1962), Book II, Ch. XII, pp 146-47.

2 Max Farrand, ed., *The Records of the Federal Convention of 1789* (Yale University Press, 1966), Vol. 1, p. 65.

3 Ibid., pp. 65-66.

4 Ibid., p. 66.

5 Ibid., Vol. 2, p. 318.

6 Ibid., pp. 318-19.

continued to be voiced. In Pennsylvania, James Wilson reasoned that the system of checks and balances “will not hurry us into war; it is calculated to guard against it. It will not be in the power of a single man, or a single body of men, to involve us in such distress.”⁷ In South Carolina, Charles Pinckney explained that the President’s power “did not permit him to declare war.”⁸ In Federalist No. 4, John Jay warned 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 a thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans.” Those and other motives, he warned, “which affect only the mind of the sovereign, often lead him to engage in wars not sanctified by justice or the voice and interests of his people.”⁹

Implementing Constitutional Principles

After the U.S. Constitution was ratified, a number of important checks were placed on presidential power. On April 22, 1793, President George Washington issued his Neutrality Proclamation, directing citizens to remain neutral in the war between Britain and France. Failure to abide by his policy could result in prosecution.¹⁰ However, what is interesting is that when the administration sought to bring individuals to trial, jurors insisted that criminal law in the United States is made by Congress, not the President. As a consequence, juries began to acquit those brought into court.¹¹ President Washington got the message and stopped prosecutions, telling lawmakers that it rested with “the wisdom of Congress to correct, improve, or enforce” the policy set forth in the proclamation.¹² A year later Congress passed the Neutrality Act. Jurors had a better understanding of the Constitution than Washington and his legal advisers.

The first war the United States entered into was not declared. Instead, the “Quasi-War” against France in 1798-99 was authorized by several dozen statutes. President John Adams

recognized he could not act unilaterally. The legislation authorized the President to seize vessels sailing to French ports. However, Adams issued an order directing American ships to capture vessels sailing to or from French ports. In a unanimous decision in 1804, Chief Justice John Marshall held that Adams had exceeded his statutory authority. The proclamation by Adams could not “change the nature of the transaction, or legalize an act which, without those instructions, would have been a plain trespass.”¹³ Thus, congressional policy announced in a statute necessarily prevails over an inconsistent presidential order and military action. Statutory limits imposed by Congress were enforced in court.

Facing problems with the Barbary pirates in the Mediterranean, President Thomas Jefferson understood and valued the key distinction between defensive and offensive actions. Under the system at that time, the United States had to pay annual bribes (“tributes”) to four countries in North Africa: Morocco, Algiers, Tunis and Tripoli. By accepting those payments, the four countries pledged not to interfere with American merchantmen. However, the agreement collapsed on May 14, 1801, when the Pasha of Tripoli insisted not only on a larger sum of money but declared war on the United States. After notifying Congress of this demand, Jefferson sent a small squadron of vessels to the Mediterranean to protect merchantmen against attacks. He also requested further legislative guidance, stating he was “unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense.” It was essential for Congress to authorize “measures of offense also.”¹⁴

When new military conflicts emerged in 1805, Jefferson spoke clearly about constitutional principles: “Congress alone is constitutionally invested with the power of changing our condition from peace to war.”¹⁵ According to claims by the Justice Department and some members of Congress, Jefferson acted militarily against the Barbary powers without seeking congressional authority.¹⁶ However, the record demonstrates that Congress passed at least ten statutes authorizing military action by Presidents Jefferson and Madison against the Barbary powers.¹⁷ In 1812, Congress

7 Jonathan Elliot, ed., *The Debates in the Several State Conventions on the Adoption of the Federal Convention* (1836-1845), Vol. 2, p. 528.

8 Ibid., Vol. 4, p. 287.

9 Benjamin F. Wright, ed., *The Federalist* (Metro Books, 2002), p. 101.

10 Henry Steele Commager, ed., *Documents of American History* (Seventh edition: Appleton-Century-Crofts, 1953), p. 162.

11 *Henfield's Case*, 11 Fed. Cas. 1099 (C.C. Pa. 1793) (No. 6,360).

12 Annals of Congress, 3d Cong., 1-2 Sess. 11 (1793).

13 *Little v. Barreme*, 6 U.S. (2 Cr.) 170, 179 (1804).

14 James D. Richardson, ed., *A Compilation of the Messages and Papers of the President* (Bureau of National Literature, 1897-1925), Vol. 1, p. 315 (hereafter “Richardson”).

15 15 Annals of Congress 19 (1805).

16 4A Op. O.L.C. 185, 187 (1980); 140 Cong. Rec. 19809 (1994).

17 Louis Fisher, *Presidential War Power* (Third edition: University Press of

declared its first war, responding to a series of actions by Britain.

The second U.S.-declared war against Mexico in 1846 led to congressional reprimands against President James Polk. He claimed that Mexico had “passed the boundary of the United States, has invaded our territory and shed American blood upon the American soil,” notifying Congress that “war exists.”¹⁸ Part of the boundary, however, was in dispute. Senator John Middleton Clayton issued this rebuke to Polk: “I do not see on what principle it can be shown that the President, without consulting Congress and obtaining its sanction for the procedure, has a right to send an army to take up a position, where, as it must have been foreseen, the inevitable consequence would be war.”¹⁹ On May 23, 1846, Congress declared war on Mexico.²⁰

Polk’s action led to censure by the House of Representatives on the ground that the war had been “unnecessarily and unconstitutionally begun by the President of the United States.”²¹ Among the members voting for censure was Abraham Lincoln, who later wrote that allowing the President “to invade a neighboring nation, whenever *he* shall deem it necessary to repel invasion, and you allow him to do so, *whenever he may choose to say* he deems it necessary for such purpose—and you allow him to make war at pleasure.”²²

Fifteen years later, with the start of the Civil War, Lincoln as President found it necessary to analyze his source of constitutional authority. In April 1861, with Congress in recess, he issued proclamations calling forth the state militia, suspending the writ of habeas corpus, and placing a blockade on the southern states. He did not, however, claim some kind of independent or plenary authority to act as he did. After members of Congress returned to session, he announced that his initiatives, “whether strictly legal or not, were ventured upon under what appeared to be a popular demand and a public necessity, trusting then, as now, that Congress would readily ratify them.”²³ In short, he lacked authority to act as he did. After debating his actions, Members of Congress agreed to pass supportive legislation, but only with the explicit

understanding that his actions lacked legal authority.²⁴

Congress declared war a third time in 1898, against Spain. The next two declared wars, in 1917 and 1941, were worldwide in scope.

The President as 'Sole Organ'

In the 1930s, there developed the claim of plenary and exclusive presidential power in external affairs. The theory came not from Presidents or members of Congress but from the Supreme Court, relying on constitutional analysis that proved to be totally erroneous.

Presidential power in external affairs was greatly broadened in 1936 by extraneous material (“dicta”) placed in the Supreme Court’s decision *United States v. Curtiss-Wright Export Corp.* The issue involved legislation passed by Congress in 1934, authorizing the President to prohibit the sale of military arms in the Chaco region of South America whenever he found “it may contribute to the reestablishment of peace” between belligerents.²⁵ When President Franklin D. Roosevelt imposed the embargo, he relied exclusively on statutory authority, stating that he acted “by virtue of the authority conferred in me by the said joint resolution of Congress.”²⁶

Writing for the Court in *Curtiss-Wright*, Justice George Sutherland upheld the delegation but proceeded to add erroneous dicta, claiming that the Constitution commits treaty negotiation exclusively to the President.²⁷ Nothing in the litigation had anything to do with treaties. Moreover, the historical record clearly demonstrates that Presidents often invite not only Senators to engage in treaty negotiation but members of the House as well. The purpose is to build legislative support for authorization and appropriation bills needed to implement treaties.²⁸

If one wants a particularly impressive repudiation of the belief that Presidents possess exclusive power over treaty negotiation, it would be a book published in 1919 reflecting

Kansas, 2013), pp. 35-37.

18 Richardson, Vol. 5, p. 2292.

19 Cong. Globe, 29th Cong., 1st Sess. 786 (1846).

20 9 Stat. 9 (1846).

21 Cong. Globe, 30th Cong., 1st Sess. 95 (1848).

22 Roy Basler, ed., *The Collected Works of Abraham Lincoln* (1953), Vol. 1, pp. 451-52 (emphases in original).

23 Richardson, Vol. 7, p. 3225.

24 Cong. Globe, 37th Cong., 1st Sess. 393 (1861) (Senator Howe).

25 48 Stat. 811 (1934).

26 Ibid., 1745.

27 *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 319 (1936).

28 Louis Fisher, “Congressional Participation in the Treaty Process,” *University of Pennsylvania Law Review* 137 (1989), pp. 1511-22.

someone's twelve years as a U.S. Senator. He explained that his colleagues regularly participated in treaty negotiations, and Presidents agreed with this "practical construction." The author of this book? George Sutherland.²⁹

How could Sutherland, given his years in the U.S. Senate, agree to include in his decision claims about treaty negotiation he knew to be false? The Chief Justice at that time, Charles Evans Hughes, selected Sutherland to write the majority opinion in *Curtiss-Wright*. Previously, Hughes had served as Secretary of State under President Warren Harding from 1921 to 1925 and developed an expansive theory of presidential power in external affairs. In that capacity, Hughes strongly endorsed the notion of the President acting as the sole negotiator of treaties. On May 18, 1922, he claimed that by virtue "of this constitutional relation to the conduct of foreign affairs, the correspondence and negotiations with foreign powers are exclusively in the hands of the President."³⁰ He said that Thomas Jefferson, the first Secretary of State, offered this advice to President Washington: "The transaction of business with foreign nations is Executive altogether."³¹

Sutherland's major error in *Curtiss-Wright* was to completely misrepresent a speech that John Marshall gave in 1800 while serving as a member of the House of Representatives. In 1800, Thomas Jefferson campaigned against President John Adams. Jeffersonians in the House wanted to either impeach or censure Adams for turning over to Great Britain an individual charged with murder. They thought the individual was an American under the name of Jonathan Robbins. He was actually Thomas Nash, a native Irishman.³²

In his speech, Marshall strongly opposed the move to impeach or censure President Adams, explaining that Adams was simply carrying out a provision of the Jay Treaty with Great Britain, which authorized each country to deliver up to each other any person charged with murder or forgery.³³

How could Sutherland, given his years in the U.S. Senate, agree to include in his decision claims about treaty negotiation he knew to be false?

Nash, being a British subject, could be turned over to Britain for trial. President Adams was not acting unilaterally in the field of external affairs. He was carrying out a treaty. In

the course of his speech, Marshall included this sentence: "The President is the sole organ of the nation in its external relations, and its sole representative with foreign nations."³⁴ "Sole" means exclusive but what is "organ"? It is clear that Marshall merely meant the President's duty to communicate to other nations U.S. policy *after* it had been established by the elected branches. He was defending Adams for carrying out a treaty. When Marshall completed his speech, the Jeffersonians found his argument so well-reasoned that they dropped efforts to impeach or censure Adams.

Sutherland thoroughly misrepresented Marshall's speech by announcing that the President possesses "plenary and exclusive power" over foreign affairs and, in that capacity, serves as "sole organ" in external affairs.³⁵ Executive branch officials regularly cite *Curtiss-Wright* to defend independent presidential power. In 1941, Attorney General Robert Jackson described the opinion as "a Christmas present to the President."³⁶ Harold Koh has explained that Sutherland's "lavish" description of presidential power was quoted with such frequency that it became known as the "*Curtiss-Wright*, so I'm right' cite."³⁷

Jettisoning the Sole-Organ Doctrine

Litigation in the George W. Bush administration led to judicial reexamination of the sole-organ doctrine. In signing a bill in 2002 that covered passports to U.S. citizens born in Jerusalem, President Bush objected that some provisions "impermissibly interfere with the constitutional functions of the presidency in foreign affairs." By referring to the President's authority to "speak for the Nation in international affairs," he appeared to rely on *Curtiss-Wright* dicta.³⁸

29 George Sutherland, *Constitutional Power and World Affairs* (Columbia University Press, 1919), p. 123.

30 Charles E. Hughes, *The Pathway of Peace: Representative Addresses Delivered During His Term as Secretary of State* (1921-1925) (Harper & Brothers, 1925), p. 250.

31 Ibid.

32 For details on the *Curtiss-Wright* case, see Louis Fisher, *Reconsidering Judicial Finality: Why the Supreme Court is Not the Last Word on the Constitution* (University Press of Kansas, 2019), pp. 101-20.

33 8 Stat. 129 (1794).

34 10 Annals of Congress 613 (1800).

35 *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 319-20 (1936).

36 Robert H. Jackson, *The Struggle for Judicial Supremacy: A Study of a Crisis in American Power Politics* (Vintage Books, 1941), p. 201.

37 Harold Hongju Koh, *The National Security Constitution: Sharing Power After the Iran-Contra Affair* (Yale University Press, 1990), p. 94.

38 *Public Papers of the Presidents* (2002), Vol. II, pp. 1697-99.

Legal challenges to this legislation continued for many years, leading to a D.C. Circuit opinion on July 23, 2013, stating that the President “exclusively holds the constitutional power to determine whether to recognize a foreign government.” Under that reasoning, language in the 2002 statute “impermissibly intrudes on the President’s recognition power and is therefore unconstitutional.”³⁹ Five times the D.C. Circuit relied on the sole-organ doctrine in *Curtiss-Wright*, claiming that the Supreme Court “echoed” the words of John Marshall by describing the President as the “sole organ of the nation in its external relations.”⁴⁰ The D.C. Circuit did not understand that Sutherland’s opinion echoed Marshall’s words but not his meaning. It demonstrated no understanding that the doctrine was not merely judicial dicta but erroneous dicta.

In response to this opinion I filed an amicus brief with the Supreme Court on July 17, 2014, analyzing the erroneous dicta in *Curtiss-Wright*.⁴¹ While the Supreme Court is in session, the *National Law Journal* runs a column called “Brief of the Week,” selecting a particular brief out of the thousands filed each year. On November 3, 2014, it chose mine, carrying this provocative title: “Can the Supreme Court Correct Erroneous Dicta?”⁴²

On June 8, 2015, the Supreme Court finally rejected the sole-organ doctrine but never explained how the statutory issue had anything to do with the President’s recognition power.⁴³ Nor did the Court acknowledge that the D.C. Circuit relied five times on erroneous dicta. The Court did not discuss how Justice Sutherland wholly misinterpreted John Marshall’s speech. Moreover, the Court perpetuated the belief about Presidents possessing exclusive power over treaty negotiation, repeating language from *Curtiss-Wright* that the President “has the sole power to negotiate treaties.”⁴⁴

Having jettisoned the sole-organ doctrine, the Court proceeded to create a substitute that promotes independent presidential power in external affairs, claiming that “only

the Executive has the characteristic of unity at all times.”⁴⁵ Anyone even vaguely familiar with the presidential record would understand that administrations regularly display inconsistency, conflict, disorder and confusion. One need only read memoirs of top officials who chronicle the infighting and disagreements within various administrations, including disputes over foreign affairs.

In addition to attributing to the President the quality of “unity,” the Court added four other characteristics for the President: decision, activity, secrecy and dispatch, borrowing those qualities from Alexander Hamilton’s Federalist No. 70. In what sense could the total of those five qualities be consistent with constitutional government? The qualities of unity, decision, activity, secrecy and dispatch could easily describe monarchs and dictators. Certainly, those five qualities can produce negative consequences. Consider President Truman allowing U.S. troops in Korea to travel northward, provoking Chinese troops to intervene in large numbers and resulting in heavy casualties for both sides. President Johnson was greatly damaged by his escalation of the war in Vietnam. Think of Nixon and Watergate and Bush II using military force against Iraq on the basis of six claims that Saddam Hussein possessed weapons of mass destruction, with all claims found to be erroneous.

Three Justices issued strong dissents in the Jerusalem passport case. Chief Justice John Roberts, joined by Justice Samuel Alito, pointed out that never before “has this Court accepted a President’s direct defiance of an Act of Congress in the field of foreign affairs.”⁴⁶ A dissent by Justice Antonin Scalia, joined by Roberts and Alito, agreed that the statute at issue had nothing to do with recognizing foreign governments.⁴⁷ Scholars have criticized this decision for promoting independent and exclusive presidential power in external affairs.⁴⁸

39 *Zivotofsky v. Secretary of State*, 725 F.3d 197, 220 (D.C. Cir. 2013).

40 *Ibid.*, 221.

41 “Brief Amicus Curiae of Louis Fisher in Support of Petitioner,” *Zivotofsky v. Kerry*, No. 13-628, U.S. Supreme Court, July 17, 2014. www.loufisher.org/docs/pip/Zivotofsky.pdf.

42 Jamie Schuman, “Brief of the Week: Can the Supreme Court Correct Erroneous Dicta?,” *National Law Journal*, November 3, 2014. www.loufisher.org/docs/pip/Fisherbrief.pdf.

43 *Zivotofsky ex rel. Zivotofsky v. Kerry*, 135 S.Ct. 2076, 2089 (2015).

44 *Ibid.*, 2086.

45 *Ibid.*

46 *Ibid.*, 2113.

47 *Ibid.*, 2118.

48 Jack Goldsmith, “*Zivotofsky II* as Precedent in the Executive Branch,” *Harvard Law Review* 129 (2015), p. 112; Esam Ibrahim, “The Dangers of *Zivotofsky II*: A Blueprint for Category III Action in National Security and War Powers,” *Harvard Law and Policy Review* 11 (2017), p. 585.

Unconstitutional Actions from Truman Forward

In a public statement on July 27, 1945, President Harry Truman pledged that if agreements were ever negotiated with the U.N. Security Council to use U.S. military force against another country “it will be my purpose to ask the Congress for appropriate legislation to approve them.”⁴⁹ The U.N. Participation Act of 1945 requires Presidents to seek congressional support before involving the nation in a U.N.-authorized war.⁵⁰ With these safeguards in place to protect constitutional principles, Truman in June 1950 unilaterally ordered U.S. air and sea forces to defend South Korea against aggression by North Korea. At a news conference on June 29, 1950, he was asked if the country was at war. His reply: “We are not at war.” Asked whether it would be more correct to call his decision “a police action” under the United Nations, he answered: “That is exactly what it amounts to.”⁵¹ Federal and state courts had no difficulty in defining the hostilities in Korea as war.⁵²

As with Truman, President Bill Clinton decided not to seek congressional approval for his military actions abroad. Instead, he sought support from the Security Council and NATO allies. He used military force in Iraq, Somalia, Haiti, Bosnia, Afghanistan, Sudan and Kosovo without once seeking or receiving statutory support.⁵³ The Office of Legal Counsel concluded that his military initiatives in Bosnia did not require statutory authority because they did not constitute “war.”⁵⁴ After a peace agreement was finally reached, Clinton announced: “America’s role will not be about fighting a war.”⁵⁵ Yet with full inconsistency he then claimed: “Now the war is over,” describing the conflict in Bosnia as “this terrible war.”

President Barack Obama followed a similar course when using military force abroad, seeking support from the United Nations and NATO allies, not from Congress. On March 21, 2011, he announced that the United States would take military action in Libya to enforce U.N. Security Council Resolution 1973. He anticipated that military operations

would conclude “in a matter of days and not a matter of weeks.”⁵⁶ They lasted seven months, exceeding the 60–90 days limit of the War Powers Resolution.

In a message to Congress, Obama stated that U.S. forces had begun military actions against Libyan air defense systems and military airfields in order to prepare a “no-fly zone.” He said the strikes would “be limited in their nature, duration, and scope.”⁵⁷ Although executive officials often attempt to minimize a no-fly zone, the use of military force against another country that has not threatened the United States should be called what former Secretary of Defense Robert Gates has described it: an “act of war.”⁵⁸

On April 1, 2011, the Office of Legal Counsel concluded that military operations in Libya did not constitute “war” because of the limited “nature, scope, and duration” anticipated.⁵⁹ By early June, however, after exceeding the 60-day limit of the War Powers Resolution, Obama sought another supportive memo from OLC stating that “hostilities” did not exist. Remarkably, OLC declined to provide that memo. Jeh Johnson, General Counsel for the Defense Department, also refused to comply with Obama’s request.⁶⁰

It is often argued that when a President receives a Security Council resolution providing support for military action, there is compliance with international law. That procedure, however, does not satisfy the Constitution. Acting through the treaty process (as with the U.N. Charter and NATO), the Senate may not transfer the Article I authority of Congress to international and regional organizations.

On June 28, 2011, during hearings before the Senate Committee on Foreign Relations, I testified on “Libya and War Powers.” Regarding Obama’s claim that he received “authorization” from the U.N. Security Council to take military actions in Libya, I said it is legally and constitutionally impermissible to transfer the Article I powers of Congress to an international (U.N.) or regional (NATO) body. The President and the Senate through the treaty process may not

49 91 Cong. Rec. 8185 (1945).

50 Fisher, *Presidential War Power*, pp. 90-94.

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

52 Fisher, *Presidential War Power*, p. 98.

53 Louis Fisher, *Supreme Court Expansion of Presidential Power: Unconstitutional Leanings* (University Press of Kansas, 2017), pp. 221-36.

54 19 Op. O.L.C. 327, 329 (1995).

55 *Public Papers of the Presidents* (1995), Vol. II, p. 1784.

56 *Ibid.* (2011), Vol. I, pp. 266, 271.

57 *Ibid.*, p. 280.

58 Robert M. Gates, *Duty: Memoirs of a Secretary at War* (Vintage Books, 2015), p. 513.

59 Office of Legal Counsel, “Authority to Use Military Force in Libya,” U.S. Dept. of Justice, April 1, 2011; <https://www.justice.gov/olc/opinion/authority-use-military-force-libya>.

60 For further details on military operations in Libya, see Louis Fisher, *President Obama: Constitutional Aspirations and Executive Actions* (University Press of Kansas, 2018), pp. 214-19.

surrender power vested in the House of Representatives and the Senate. Treaties may not amend the Constitution.⁶¹

Conclusion

From President Truman forward, Presidents have unilaterally engaged in military actions abroad, including Eisenhower's covert operations in Iran and Guantanamo. With the ill-fated Bay of Pigs, Kennedy supported the invasion of Cuba. In violation of statutory policy, Reagan became involved in the Iran-Contra affair. Claiming independent power, Trump bombed Syria after its use of nerve gas and assisted Saudi Arabia with military operations in Yemen. Under the Constitution, such initiatives require joint action by both elected branches.

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⁶¹ Statement by Louis Fisher, "Libya and War Powers," Senate Committee on Foreign Relations, June 28, 2011, https://www.foreign.senate.gov/imo/media/doc/Fisher_Testimony.pdf

The President and the Blob

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This article was first published by [The Boston Review](#) on November 11, 2019, and is republished with permission from The Boston Review, Andrew J. Bacevich and Rajan Menon.

When Defense Secretary Mark Esper announced on October 13 that President Donald Trump would bring home 2,000 U.S. troops deployed in Syria, it ignited a bipartisan firestorm. Pundits—conservatives and liberals alike—savaged Trump for deserting the Syrian Democratic Forces (SDF), composed largely of Kurds who had fought alongside the United States against the Islamic State (IS). In Congress, even Trump’s most stalwart defenders, including Senate majority leader Mitch McConnell and Senator Lindsey Graham, parted ways with him.

The critics were playing a familiar tune. By announcing his intention to pull out of Syria, Trump was corroding U.S. credibility across the globe, demoralizing U.S. allies, undercutting the campaign against terrorism, throwing a lifeline to a (supposedly) dying IS, opening the door to genocide, and handing unearned victories to Iran, Russia, and by extension to Syrian president Bashar al-Assad. The charge sheet was extravagantly comprehensive; dissenters were few and far between.

In fairness to Trump’s critics, the president’s operating style, unique in the annals of U.S. statecraft, does not inspire confidence; and his decision on Syria was of a piece. It owed, seemingly, to id and impulse, not reason, and it was suffused with that dangerous Trumpian amalgam of ignorance and overweening self-confidence. Moreover, the president’s own Syria policy has been all over the map. After being elected, he actually *increased* the number of U.S. troops there, to a total of about 2,000. Then, in late 2018, he surprised his advisers by calling for an immediate reduction on the grounds that IS had been defeated. Then he changed his mind again. Less than a week after last month’s abrupt order for a full withdrawal, he reversed course yet again, decreeing that a small, unspecified number of troops would remain, to guard Syria’s oil fields — never mind that these are dispersed and nowhere near the SDF-controlled northeast.

By going with his gut on this decision, Trump effectively ignored his foreign policy and national security team and the top military brass, all of whom seemed stupefied following Esper’s newflash. These advisers were left to contemplate various what-next questions that had seemingly never occurred to the commander-in-chief. How, for example, would U.S.

troops exit a war zone speedily and safely, especially with angry Kurds flinging trash and invective at them? What, precisely, would limit the advance of Turkish forces once the U.S. troops were gone? What fate would befall the Kurds inhabiting the twenty-mile buffer that Turkey president Recep Tayyip Erdogan planned to create in northern Syria, and then to flood with Syrian Arab refugees? Who would care for Kurdish refugees fleeing the advance of Turkish-backed Syrian opposition fighters and al-Assad's army? What if in the ensuing melee IS prisoners under the SDF's control managed to escape?

Indubitably, then, Trump's Syria decision was hasty and the (non-) process used to decide inept. Yet what his recklessness laced with grandiosity elicited from his critics was the standard Beltway cocktail of bromides, stale thinking, skin-deep historical knowledge, and hypocritical sentimentality. And that, in the end, is the real pity.

American presidents have unique autonomy and latitude when it comes to enacting foreign policy. Apart from conflating U.S. interests with their own personal interests, they can set the agenda and execute their priorities. Given the magnitude of this responsibility and the complexity of decision making involved, they rely on what Stephen Walt calls the "blob" — the amorphous foreign policy establishment that diffuses responsibility and rarely if ever suffers consequences for its mistakes.

To understand how calamitous this partnership between politician and blob has been in recent years, consider the U.S. policy that resulted with troops in Syria in the first place. For starters, recall that it was President Barack Obama, not Trump, who first engineered the U.S. collaboration with the SDF, in 2015 — partly in response to calls, including from some members of his administration, to intervene more forcefully in Syria's civil war. Bipartisan legislation in 2014 had approved \$500 million to extract Syrian Arab rebels out of Syria to train and arm them for the fight against IS. But this program produced little of value: the rebels proved more interested in resisting Syrian president Bashar al-Assad than in fighting IS.

Obama's plan to partner with the SDF was doomed from the start. Insisting on a U.S. presence in Syria sweeps various additional problems under the rug.

Obama sought to project toughness on terrorism. With polls taken in late 2014 and early 2015 revealing that a majority of Americans favored sending ground troops to fight IS in Syria, he terminated the 2014 program and developed a new, measured plan. Yet Obama understood that protracted wars in Afghanistan and Iraq had made Americans wary of military expeditions that began with promises of easy victories and then dragged on for years, with vast expenditure of blood and treasure. So he chose to deploy a limited number of Special Operations Forces — fewer than 50 in October 2015, and then another 450 in April and December of the following year — to train and equip a more clearly defined local partner to do the bulk of the fighting, with air support provided by U.S. warplanes already stationed nearby at Incirlik, Turkey. Enter the SDF, which was already engaged in fighting on the ground and shared the U.S. interest of destroying the sprawling caliphate that IS had by then erected in parts of Syria (and Iraq).

The partnership, while superficially plausible, was doomed from the start. Though the SDF included Syrian Arabs and Assyrians, it was dominated by the People's Protection Units (YPG), the fighting arm of the Democratic Union Party (PYD), a Syrian Kurdish nationalist organization. The United States and the Syrian Kurds had a common enemy in IS, but they did not share common political objectives. The Syrian Kurds' minimal goal, which required the liquidation of IS, was an autonomous Kurdish region in northeastern Syria; what it really coveted was an independent state for Syria's Kurds — an outcome unacceptable to just

about every nation in the region, especially Turkey.

Erdogan — and Turks generally — recognized that the PYD was now essentially masquerading as the SDF. The PYD, while organizationally distinct, is a kindred spirit of the Kurdistan Workers' Party (PKK), which has fought for a Kurdish state in southeastern Turkey for decades. In 1997 and again in 2019, the U.S. State Department had labeled the PKK a terrorist group. Photographs of the jailed PKK leader Abdullah Ocalan abound in PYD-ruled Syrian territories, and some PKK fighters have joined their PYD comrades in battle, as have Iranian Kurds from the Party of Free Life for Kurdistan (PAJAK), which, in 2009, the U.S. Treasury Department also labeled a terrorist group.

One can sympathize with the Kurds, of course. The post-World War I territorial settlement Britain and France devised to carve up much of the Near East eviscerated the Kurds hope for statehood, dispersing them across three countries. The cold historical reality, however, is that no state with the power to prevent the emergence of a separatist state on its flank, to say nothing of one aligned with a homegrown secessionist insurgency it has battled for decades, will allow that to happen. Long before Erdogan was even elected prime minister in 2003 (he became president in 2014), the Turkish state had demonstrated, repeatedly, its determination to wage a pitiless counterinsurgency war against the PKK, which included the burning of over 2,000 Kurdish villages. Between 1984 — when the PKK took up arms — and 2014, more than 65,000 civilians and combatants on both sides died or were injured, with the Kurds getting the worst of it by far.

Yes, Trump is a disastrous president. But U.S. foreign policy has been a disaster for much longer.

The idea that Turkey would permit a PKK affiliate to create a de facto state within Syria adjacent to Turkey proper was therefore delusional. Erdogan has been reviled in the United

States; but you needn't like the man to understand what drives his actions in northern Syria. In 2018 he denounced the SDF as a U.S.-backed "terror army" and most Turks support him — indeed, as opinion polls demonstrate, Turks are turning increasingly hostile toward the United States.

Obama, for his part, seems to have given scant thought in 2015 to how the United States might respond if Turkey moved to crush the SDF. Clearly, he had no intention of sending troops numerous enough to deter, let alone repel, a Turkish offensive against the SDF. His focus was on limiting

U.S. exposure — hence, his resistance to taking bolder steps, such as creating a no-fly zone over Syrian airspace or safe areas inside Syria for refugees fleeing Assad's army. His plan for demolishing IS by relying on the SDF, though successful, was all but certain to give rise to an additional set of problems.

For example, Turkey's interests aside, consider that Assad's forces have been making steady gains since 2015, which is the year Vladimir Putin intervened with Russian airpower and thousands of so-called contract soldiers to prevent the Syrian state's collapse. As Putin sees it, Assad's fall would perpetuate chaos and create further space for the rise of a radical Islamist government. Russia thus remains determined to help Assad retake the lands he has lost to an assortment of armed opponents. So, to those who demand that the United States maintain troops in Syria (or even increase their number), the question Obama swept under the rug remains: would the United States be willing to defend the SDF from a Russian-supported assault by Assad's army in the south while Turkey was also pressing against it in the north?

Critics of Trump's recent withdrawal claim that Trump has handed Russia a big prize. This is absurd. Imagine, for a moment, that Assad routs his opponents soon and once again rules all of Syria. What strategic gain will accrue to Putin? Large parts of Syria have been demolished and resemble a smoldering ruin. No Western country will pony up the cash needed for a serious reconstruction, which the UN estimates will require \$250 billion (Syria's entire GDP before the civil war began in 2011) and other sources estimate at \$400 billion. Whatever the sum, the Russians can't afford it. The Chinese have the money to help rebuild Syria, but why would they when Russia would then reap the benefits?

The proponents of hanging tough in Syria also warn of wily Russian diplomats forging ties with Saudi Arabia, the United Arab Emirates, Egypt, and Turkey. To hear them tell it, you would think that Russia — with a military budget that is less than a tenth of the United States' and a GDP comparable to that of the Benelux countries' — has all but driven the United States out of the Middle East. But Russia's achievements here cannot be blamed on Trump's actions in Syria. Russia's diplomatic successes in the Middle East were evident during Obama's presidency and continued even as Trump beefed up the military deployment in Syria that he inherited following the 2016 election. Indeed, the extensive cooperation between Israel in particular and Russia can be traced at least to the 1990s. Putin has certainly built energetically on that foundation, but his success cannot be ascribed to U.S. policy in Syria, let alone Trump's decision to reduce the number of troops deployed there. Moreover, the question remains of

how substantial and lasting these relationships will prove to be. Each of the countries in question, for example, remains much more closely tied to the United States than to Russia, or indeed any other state.

As for the charge that Trump has betrayed the Kurds, well, he has. Indeed, the United States has forsaken the Kurds repeatedly, on a much grander scale, and long before Trump came on the scene. Consider just a couple of examples. Washington armed Turkey — to the tune of \$800 million a year on average during Bill Clinton's presidency — as Turkey mounted its massive counterinsurgency against the PKK in the 1990s. During the Iran-Iraq War, the Reagan administration supported Saddam Hussein in several ways, including providing Iraq economic credits as well as intelligence information on Iranian troop deployments, even as Hussein set out to retake Kurdish territories in northern Iraq. During their 1988 offensive, called Operation Anfal, Iraqi troops killed thousands of Kurdish civilians, demolished entire villages, and used poison gas in the town of Halabja, taking some 5,000 Kurdish lives. The entire campaign may have killed as many as 100,000 civilians. The White House and State Department uttered nary a word of condemnation after the attack on Halabja and even opposed Congressional resolutions that sought to do so.

There is, then, much amnesia at work in 2019.

From where we sit, Donald Trump has been a disastrous president, and in ways too numerous to recount here. Apart from his policies, his personal comportment — the sexism, the racist dog whistles, the demagoguery, the coarseness — has been revolting. With luck, and assuming he manages to finish his term, voters will cashier him in 2020. That said, however, the barrage of attacks and news coverage that followed his decision to reduce the U.S. military presence in Syria has obscured something the country really needs: a debate about the basic principles of recent U.S. foreign policy. This policy, which has loomed large since 9/11, has five, interrelated elements.

First, recent U.S. foreign policy has authorized serial military interventions undertaken in the name of universal human rights, the commitment to which is belied by the many repressive regimes that the United States supports. A recent, egregious example is U.S.-armed Saudi Arabia's war in Yemen, which began in the final year of Obama's presidency and has

ravaged a dirt-poor country, killed thousands of civilians, and created a cholera epidemic and a famine.

Second, recent U.S. foreign policy rests largely on the so-called war against terrorism which has no clarity of strategic purpose — namely, whether the “terrorists” pose a clear and present danger or are a species of militant Islam produced by complex causes that may be rooted in local factors that have little to do with the United States. The war on terror has used drone strikes and special operations to convert large swathes of the planet into a battlefield and commits the country to promiscuous, preventive, and open-ended interventions across the globe.

The foreign policy establishment says that we must persevere, lest adversaries doubt our will and allies lose their nerve. But endless interventions ensure militants a steady stream of recruits.

Third, and a consequence of the first two, the decapitation of governments (such as in Afghanistan, Iraq, and Libya) produces chaos and bloodletting while leaving the United States with two bad choices: doubling down for years (Afghanistan and Iraq) or bugging out (Libya). The

first two ventures have cost \$5.9 trillion (counting the money already spent and the future obligations to our troops), while the third has proved to be a boon for Al-Qaeda, IS, and a network of human traffickers and armed militias who have thrived in the resulting power vacuum.

Fourth, recent foreign policy has all but ignored the cumulative opportunity costs. While it is true that money can't fix all of our festering domestic problems, it would certainly help ameliorate some of them. Imagine if the money saved by winding down needless, counterproductive wars was put towards updating crumbling infrastructure, or addressing the child poverty rate (which ranks among the highest in OECD countries), or treating the raging opioid and suicide epidemics (the latter of which has taken a heavy toll on veterans and active-duty soldiers; at least 45,000 have killed themselves since 2013). The military, which is currently having to lower its health and education standards in order to field a force, is especially aware of the consequences of decreased domestic investment.

Lastly, U.S. foreign policy since 9/11 has largely allowed Congress to go AWOL. The Authorization for the Use of Military Force (AUMF), legislation passed on September 14, 2001, has amounted to a permanent permission slip presidents can invoke to mount armed interventions of various sorts, thus enabling the continual military interventions of recent years. Congress can undo this legislation whenever it

chooses, but instead has all but abdicated its constitutional right to declare war.

By assuming the cloak of “anti-terrorism,” U.S. foreign policy post 9/11 has amounted to an endless game of whack-a-mole, pitting the United States against militant movements that move from one country to another. How, then, does this game end? What will victory look like? The foreign policy establishment says that we must persevere lest adversaries doubt our will and allies lose their nerve. But these shopworn shibboleths about being persistent and demonstrating credibility keep the game going. Endless interventions simply generate resentments that ensure militants a steady stream of recruits. Sticking with the same failed strategy in hopes of a obtaining a different result amounts to insanity.

Trump famously described himself as a “very stable genius.” He is, in fact, neither stable nor particularly smart. Yet he deserves credit for his intuition in 2016. He sensed the American public’s frustration over the forever wars, the burden of which is borne by a small segment of our society because we do not have a military draft, and which are paid for with the national credit card rather than by raising taxes. Trump also grasped the depth of resentment among those who feel belittled, even mocked, by a super-rich elite that knows nothing, and perhaps cares less, about their workaday hardships. He tapped into the despair of people whose jobs succumbed to outsourcing and automation and those who have jobs but nevertheless struggle to cover basic expenses.

Since 2016, the number of U.S. troops has increased in virtually every region of the world.

as a revolutionary savior. It convinced nearly 63 million voters that he would dismantle a dysfunctional system and replace it with one that would, at long last, fix their problems. In the end, unsurprisingly, Trump has managed only to perpetrate one more con job. His promise of a new foreign policy has proven bogus. Since 2016, the number of U.S. troops has increased in virtually every region of the world; the total in Afghanistan, Iraq, and Syria soared from 18,000 at the end of Obama’s term to 26,000 by the end of 2017. Most recently Trump dispatched 3,000 troops to Saudi Arabia, supposedly to shore up its defenses against Iran, never mind that the United States has sold the House of Saud \$90 billion worth of arms since 1950 so it could supposedly defend itself.

Trump spun a narrative, which, for all of its simplemindedness and crudeness, portrayed him, a quintessential creature of privilege,

Under Trump, the forever wars grind on. Drone strikes and military raids remain the commander-in-chief’s tools of choice — notably in Libya, Somalia, and Yemen. Obama was scarcely a paragon of transparency on civilian deaths caused by drone strikes, but as of this year, the Trump administration stopped releasing annual reports on drone attacks, thereby making it even harder to ascertain civilian casualties and deaths. If anything, Trump uses military force even less discriminately than his predecessor did. The self-proclaimed architect of restraint turns out to be the avatar of more of the same.

And yet all that disaffection he tapped into to win the presidency remains. Though not all of it stems from a loss of confidence in U.S. foreign policy, the disenchantment with militarized “global leadership” and awareness of its abundant failures will likely still haunt us in 2020 and beyond. A true change in our policy will require a root-and-branch assessment that distinguishes between essential goals, commitments, and expenditures and those that owe to bureaucratic inertia, entrenched vested interests, and a foreign policy establishment that not only lacks new ideas but is also increasingly sequestered in Washington, D.C., and disconnected from public sentiment. It will entail realigning ends and means, redefining national security so as to take account of domestic socio-economic considerations. It will require winding down wars that breed millenarian movements and more terrorism. Despite his propensity for big talk, the current commander in chief won’t achieve any of this.

No thoroughgoing change will occur unless the foreign policy establishment rethinks its worldview. And that won’t happen until members of the blob — whether in Congress, the military, think tanks, or the media — acknowledge the role that their collective folly has played in elevating someone like Trump to the presidency. The U.S. foreign policy crisis predates Trump. It won’t end simply with his removal from office.

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This article was first published by [The Boston Review](#) on November 11, 2019, and is republished with permission from The Boston Review, Andrew J. Bacevich and Rajan Menon.

The Future of the Kurds

Graham E. Fuller

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Of all the peoples of the Middle East who have suffered through various wars and manipulations by the US and other foreign powers over the past century, the Kurds, an indigenous people inhabiting the mountainous region straddling the borders of Turkey, Iraq, Syria, Iran and Armenia, are probably the only people whose national cause has improved during the more recent geopolitical turmoil. Kurds make up the fourth-largest ethnic group in the Middle East. On each occasion, they have managed to put themselves and their aspirations more firmly on the world map and gained attention in the calculations of the great powers.

The Kurds took advantage of the brutal Iran-Iraq War from 1980 to 1988 to gain some elements of transitory de facto autonomy in northern Iraq and even in Iran. Then the war to expel Saddam Hussein in his invasion of Kuwait in 1990 led to the first creation of a secure no-fly zone for the Kurds on the Turkish border in northern Iraq. The US invasion of Iraq in 2003 and the resulting widespread anarchy gave further opportunities for the Iraqi Kurds to establish a de facto autonomous zone. Finally, the civil war in Syria brought the Syrian Kurds into the geopolitical equation there in which Syrian Kurdish forces have acted as significant allies to the US — much to Turkey's chagrin — in the international campaign against the militant jihadist group known as the Islamic State in Iraq and the Levant (ISIS). Syria's Kurds are now seeking to establish their own regional state of some kind in northern Syria.

The Kurds represent one of the largest ethnic groups in the world — some 35 million — who have no state of their own. They are scattered across the Middle East region with some fifteen million in Turkey, six million in Iraq, six million in Iran, and up to two million in Syria.

Can the Kurds Unite?

The Kurds have never achieved any kind of pan-Kurdish solidarity. A key reason is that they live in mountainous regions, which leads to divided clans and traditions.

More importantly, the states in which they live have been determined to deny them any kind of independence. Furthermore, the Kurds have been historically socialized into three highly distinct political cultures: Turkish-speaking in Turkey, Arabic-speaking in Syria and Iraq, and Persian-speaking in Iran. All these languages are distinct and quite unrelated. The Kurdish language itself constitutes a branch among Iranian languages; it consists of at least three different dialects. Living in their traditional mountainous regions, usually far from urban centers in Turkey, Iran, Iraq and Syria, the Kurds developed a more tribal, sometimes even feudal type of social structure — except for those living in more urban areas.

In an earlier decade, it was Turkey that made the greatest progress towards finally acknowledging the Kurds as a distinct culture and language. Even twenty-five years ago, the term “Kurd” rarely appeared in the Turkish press; Kemalist culture and governance claimed they were merely a strain of backward “mountain” Turks given to anarchy and brigandage. But today, and especially in the early days of the Erdogan-AKP government, important progress has been made: the Kurdish identity is officially acknowledged, and some freedom is granted for the use of the Kurdish language, which had been banned in public usage. There were experiments in using the Kurdish language in schools alongside of Turkish. Sadly, in later years, Erdogan and Kurdish guerrilla groups allowed promising negotiations to collapse as Erdogan sought to play the Turkish nationalist card to strengthen his domestic political position. The main Kurdish armed Marxist militia, the PKK, then stepped up its insurgency operations inside Turkey. The situation between the two sides remains tense and violent, especially as Erdogan strengthens his hold over the country where he has all but crushed the leadership of the progressive pro-Kurdish Peoples' Democratic Party (HDP).

In Iraq, the Kurds today have gained a great deal of autonomy, especially after the fall of Saddam Hussein. Ankara, to its credit, finally bit the bullet and wisely acknowledged the Kurdish entity in Iraq. Indeed, it has brought it into Turkey's

economic orbit where Turkey represents the Kurds' single most important commercial tie.

The Kurds in Syria have benefitted from the country's turmoil to form a new political entity called Rojava, which runs parallel to the Turkish-Syrian border. They are most prominently represented by their united militia organization, the People's Protection Units (YPG), who maintain significant ties with Turkey's Kurdish guerrillas, known as the Kurdistan Workers' Party (PKK). The YPG also cooperates with the US in anti-ISIS operations. Indeed, a large number of Syrian Kurds are refugees from Turkey from 1937 when they fled a massacre by the Turkish army, for which Erdogan actually apologized in 2011. But Ankara remains very sensitive about Rojava and is angered with Washington's military cooperation with Syrian Kurdish militias. Ankara is determined not to allow the establishment of any autonomous Kurdish entity in northern Syria in any new Syrian political order.

Kurdish leaders and politicians in the past have been somewhat conservative and traditional, linked to tribal associations and regionally focused. But the Kurdistan Workers' Party (PKK) brought a new face to Kurdish nationalism starting in 1980 when its leader, Abdullah Öcalan (the Avenger), promulgated a Marxist and pan-Kurdish vision for the first time in Kurdish history, calling for national liberation of all Kurds, eventually to create one Kurdish state. This internationalist agenda represented a threat to traditional local Kurdish leaders, particularly in northern Iraq. This has led to occasional willingness by Iraqi Kurdish leaders even to cooperate with Ankara against the more radical Turkish guerrillas of the PKK. That cooperation does not sit well with many younger Kurdish nationalists.

In the meantime, the Kurds in Iran now seem the most isolated of all, largely unaffected by events in Iraq and Syria. While their Kurdish identity in Iran is acknowledged, Tehran has little tolerance for any movements towards autonomy, much less separatism, and it cracks down harshly against Kurdish separatist leadership.

The fact is that all these political events surrounding the Kurds — the anti-ISIS struggle, the creation of a new Iraqi state and a new order in Syria, and Turkey's more activist role in Kurdish regions outside of Turkey — offer Kurds new political options. From a historical perspective, eventual greater autonomy for all Kurds appears all but inevitable; in terms of real autonomy, Iraqi Kurds are, at the moment, the

most advanced.

Shared hostility to any kind of Kurdish independence unites the regimes of Turkey, Iraq, Syria and Iran. Whatever other issues they have with each other, they will always cooperate on this one. The more autonomy Kurds gain in one state, the more demands will arise in the other Kurdish regions. But the Kurds have now also developed something of an international constituency, which brings them greater sympathy, diplomatic support, and human rights attention abroad.

The Iraqi Kurds planned a referendum on independence on September 25, 2017. This move was opposed by Washington, the international community, and all regional states. (Israel is the only exception; it supports Kurdish independence as part of its policy to weaken all regional states.) Few Kurds will vote against independence — it is a cherished cause. And a yes vote does not necessarily mean real consequences will flow from it immediately, but the Kurdish regional government will gain a powerful bargaining chip vis a vis Baghdad, and the inexorable process of ever greater Kurdish autonomy will have moved significantly further forward.

The handwriting is on the wall: broad Kurdish cultural and political autonomy is in the cards in all Kurdish

regions. If governments resist, crack down and persecute, Kurdish discontent will grow along with international sympathies for them. All four of these states need to get smart about how they will handle this issue over the longer run. Denial and repression will only intensify violence and local anger.

Turkey ironically could emerge as the big winner from serious Kurdish autonomy in Turkey, but only if Ankara plays its cards intelligently. Over half of Turkey's Kurds live outside the southeast Kurdish zone. Istanbul is the largest Kurdish city in the world. Kurdish identity is now fully out of the box and broadly acknowledged among the Turkish public. If Turkey's Kurds are granted serious local autonomy, there will be far fewer incentives for them to break away from Turkey and retreat to isolation in the southeast. By being part of Turkey, Turkish Kurds would be part of the most flourishing state in the Middle East with ties to Europe and to Asia. Never mind that President Erdogan, through his self-aggrandizement and megalomania, is currently crushing all political opposition; he is seriously damaging Turkish democracy and its international stature for now, but Erdogan will not last forever.

From a historical perspective, eventual greater autonomy for all Kurds appears all but inevitable.

If Turkey can satisfy its own Kurds' aspirations, it will become the center of Kurdish economic and cultural life for the whole Middle East. Indeed, an enlightened Turkish policy towards its own Kurds will create a magnet force in Turkish Kurdistan by creating a model of Kurdish governance and life that will attract discontented Kurds in Iraq, Iran and Syria. Turkey would become the international Kurdish capital with far more to offer than Iraq, Iran or Syria ever could.

If, on the other hand, Turkey is unwise, and if President Erdogan continues to try to exploit crude Turkish nationalism against the Kurds to bolster his own isolated government, then the crisis will grow and violence in Turkey will increase, seriously damaging the country, and spread over into the neighboring Kurdish regions.

Will the Kurds ever unite under their own state? No one can say. How successfully these four states handle the challenge of integrating large minorities will be a key litmus test for their own future democratic governance. But it is safe to say that repression and violence will never solve the Kurdish problem; ultimately, they will only hasten and escalate Kurdish demands for maximum independence.

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The U.S. Is Now Betraying the Kurds for the Eighth Time

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Originally published on October 7, 2019. Republished with permission from [The Intercept](#), an award-winning nonprofit news organization dedicated to holding the powerful accountable through fearless, adversarial journalism.

The White House announced Sunday night [October 6th, 2019] that the United States is giving Turkey a green light to invade northern Syria, with the U.S. troops there now apparently pulling back to another area of the country. This is the scenario that Syrian Kurds have long feared. It will almost inevitably lead to a Turkish attack on Kurdish militias in Syria — fighters who loyally helped the U.S. destroy the Islamic State, but whom Turkey bogusly claims to be terrorists.

On Monday morning, New York Times columnist Paul Krugman asked why Donald Trump made this decision:



What Krugman left out, however, is the most likely explanation: (d) Trump is president of the United States. Nothing in this world is certain except death, taxes, and America betraying the Kurds.

The U.S. has now betrayed the Kurds a minimum of eight times over the past 100 years. The reasons for this are straightforward.

The Kurds are an ethnic group of about 40 million people centered at the intersection of Turkey, Syria, Iran, and Iraq. Many naturally want their own state. The four countries in which they live naturally do not want that to happen.

On the one hand, the Kurds are a perfect tool for U.S. foreign policy. We can arm the Kurds

in whichever of these countries is currently our enemy, whether to make trouble for that country's government or to accomplish various other objectives. On the other hand, we don't want the Kurds we're utilizing to ever get too powerful. If that happened, the other Kurds — i.e., the ones living

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just across the border in whichever of these countries are currently our allies — might get ideas about freedom and independence.

Here's how that dynamic has played out, over and over and over again since World War I.

1 — Like many other nationalisms, Kurdish nationalism blossomed during the late 1800s. At this point, all of the Kurdish homeland was ruled by the sprawling Ottoman Empire, centered in present day-Turkey. But the Ottoman Empire collapsed after fighting on the losing side of World War I. This, the Kurds understandably believed, was their moment.

The 1920 Treaty of Sèvres completely dismembered the Ottoman Empire, including most of what's now Turkey, and allocated a section for a possible Kurdistan. But the Turks fought back, making enough trouble that the U.S. supported a new treaty in 1923, the Treaty of Lausanne. The Treaty of Lausanne allowed the British and French to carve off present-day Iraq and Syria, respectively, for themselves. But it made no provision for the Kurds.

This was America's first, and smallest, betrayal of the Kurds. At this point, the main Kurdish betrayals were handled by the British, who crushed the short-lived Kingdom of Kurdistan in Iraq during the early 1920s. A few years later, the British were happy to see the establishment of a Kurdish "Republic of Ararat," because it was on Turkish territory. But it turned out that the Turks were more important to the British than the Kurds, so the United Kingdom eventually let Turkey go ahead and extinguish the new country.

This was the kind of thing that gave the British Empire the nickname "perfidious Albion." Now America has taken up the perfidious mantle.

2 — After World War II, the U.S. gradually assumed the British role as main colonial power in the Mideast. We armed Iraqi Kurds during the rule of Abdel Karim Kassem, who governed Iraq from 1958 to 1963, because Kassem was failing to follow orders.

We then supported a 1963 military coup — which included a small supporting role by a young Saddam Hussein — that removed Kassem from power. We immediately cut off our aid to the Kurds and, in fact, provided the new Iraqi government with napalm to use against them.

3 — By the 1970s, the Iraqi government had drifted into the orbit of the Soviet Union. The Nixon administration, led by Henry Kissinger, hatched a plan with Iran (then our ally, ruled by the Shah) to arm Iraqi Kurds.

The plan wasn't for the Kurds in Iraq to win, since that might encourage the Kurds in Iran to rise up themselves. It was just to bleed the Iraqi government. But as a congressional report later put it, "This policy was not imparted to our clients, who were encouraged to continue fighting. Even in the context of covert action ours was a cynical enterprise."

Then the U.S. signed off on agreements between the Shah and Saddam that included severing aid to the Kurds. The Iraqi military moved north and slaughtered thousands, as the U.S. ignored heart-rending pleas from our erstwhile Kurdish allies. When questioned, a blasé Kissinger explained that "covert action should not be confused with missionary work."

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4 — During the 1980s, the Iraqi government moved on to actual genocide against the Kurds, including the use of chemical weapons. The Reagan administration was well aware of Saddam's use of nerve gas, but because they liked the damage Saddam was doing to Iran, it opposed congressional efforts to impose sanctions on Iraq. The U.S. media also faithfully played its role. When a Washington Post reporter tried to get the paper to publish a photograph of a Kurd killed by chemical weapons, his editor responded, "Who will care?"

5 — As the U.S. bombed Iraq during the Gulf War in 1991, George H.W. Bush famously called on "the Iraqi military and Iraqi people to take matters into their own hands, to force Saddam Hussein, the dictator, to step aside." Both Iraqi Shias in southern Iraq and Iraqi Kurds in northern Iraq heard this and tried to do exactly that.

It turned out that Bush wasn't being 100 percent honest about his feelings on this subject. The U.S. military stood down as Iraq massacred the rebels across the country.

Why? New York Times columnist Thomas Friedman soon explained that “Mr. Bush never supported the Kurdish and Shiite rebellions against Mr. Hussein, or for that matter any democracy movement in Iraq” because Saddam’s “iron fist simultaneously held Iraq together, much to the satisfaction of the American allies Turkey and Saudi Arabia.” What the U.S. wanted was for the Iraqi *military*, not regular people, to take charge. “Then,” Friedman wrote, “Washington would have the best of all worlds: an iron-fisted Iraqi junta without Saddam Hussein.”

6 — Nevertheless, the dying Iraqi Kurds looked so bad on international television that the Bush administration was forced to do something. The U.S. eventually supported what was started as a British effort to protect Kurds in northern Iraq.

During the Clinton administration in the 1990s, these Kurds, the Iraqi Kurds, were the good Kurds. Because they were persecuted by Iraq, our enemy, they were worthy of U.S. sympathy. But the Kurds a few miles north in Turkey started getting uppity too, and since they were annoying our ally, they were the bad Kurds. The U.S. sent Turkey huge amounts of weaponry, which it used — with U.S. knowledge — to murder tens of thousands of Kurds and destroy thousands of villages.

7 — Before the Iraq War in 2003, pundits such as Christopher Hitchens said we had to do it to help the Kurds. By contrast, Pentagon Papers whistleblower Daniel Ellsberg had this dour exchange with neoconservative William Kristol on C-SPAN just as the war started:

Ellsberg: The Kurds have every reason to believe they will be betrayed again by the United States, as so often in the past. The spectacle of our inviting Turks into this war ... could not have been reassuring to the Kurds ...

Kristol: I’m against betraying the Kurds. Surely your point isn’t that because we betrayed them in the past, we should betray them this time?

Ellsberg: Not that we *should*, just that we *will*.

Kristol: We will not. We will not.

Ellsberg, of course, was correct. The post-war independence of Iraqi Kurds made Turkey extremely nervous. In 2007, the U.S. allowed Turkey to carry out a heavy bombing campaign against Iraqi Kurds inside Iraq. By this point, Kristol’s magazine the Weekly Standard was declaring that

this betrayal was exactly what America should be doing.

With Trump’s thumbs-up for another slaughter of the Kurds, America is now on betrayal No. 8. Whatever you want to say about U.S. actions, no one can deny that we’re consistent.

The Kurds have an old, famous adage that they “have no friends but the mountains.” Now more than ever, it’s hard to argue that that’s wrong.

About the Author

Before joining First Look Media, Jon Schwarz worked for Michael Moore’s Dog Eat Dog Films and was a research producer for Moore’s “Capitalism: A Love Story.” He’s contributed to many publications, including the New Yorker, the New York Times, The Atlantic, the Wall Street Journal, Mother Jones, and Slate, as well as NPR and “Saturday Night Live.” In 2003, he collected on a \$1,000 bet that Iraq would have no weapons of mass destruction.

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Everybody Betraying Everybody in Syria

Graham E. Fuller

Former vice chairman, National Intelligence Council at the CIA

Just what have we witnessed in the recent events in Syria? It's hard to know, given the avalanche of superficial and over-the-top headlines in most US media: betrayal of the Kurds, handing Syria over to Russia, caving to Turkey's Erdogan, bestowing a gift upon Iran, allowing ISIS to once again run wild, the end of US leadership. Yet, the bottom line of the story is that after some eight years of civil conflict, the situation in Syria is basically reverting to the pre-conflict norm. The Syrian government is now close to re-establishing its sovereign control over the entire country. Indeed, Syria's sovereign control over its own country had been vigorously contested, even blocked, by many external interventions — mainly on the part of the US, Israel, Saudi Arabia, Turkey, and a few European hangers-on — all hoping to exploit the early uprising against the Bashar al-Assad regime and to overthrow it. In favor of what, was never clear.

Much of this picture has a long history. The US has been trying to covertly overthrow the Syrian regime off and on for some fifty years, joined on occasion by Israel or Saudi Arabia or Iraq, or Turkey or the UK. Most people assumed that when the Arab Spring broke out in Syria in 2011, civil uprisings there would lead to the early overthrow of another authoritarian regime. But they did not. This was in part due to Assad's brutal put-down of rebel forces, in part because of the strong support he received from Russia, Iran and Hizballah, and in part because large numbers of Syrian elites feared that whoever might take Assad's place — most likely one or another jihadi group — would be far worse, more radical and chaotic than Assad's strict but stable secular domestic rule.

Nonetheless, over this entire time, the US has been willing to support almost any motley array of forces, including extremist jihadi forces linked with al-Qaeda, to try to overthrow Assad. Washington has never gotten over the fact that Syria, for over half a century, hasn't bowed to US or Israeli hegemony in the region, and has all along been a strong supporter of Syria's secular — yes, secular — Arab nationalism. The US has therefore shown great willingness to “fight to the last Syrian” if necessary to achieve its ends.

As Assad's forces gradually regained control over the country, Washington resisted those efforts, even though large numbers of Syrians want to see an end to war and destruction. In the Middle East, after all, Assad's Syria has been by no means the worst regime alongside Egypt, Saudi Arabia, Saddam's Iraq, Iran and other states. If Washington disliked Assad before, it is even more angered that Assad appealed to Iran, Russia and Hizballah for support. Yet ironically, if the civil war, with its massive foreign support to the rebels, had not been so prolonged, Assad might not have needed Russian or Iranian support and presence. So, we reap what we sow. And it is important to remember that Assad still represents the internationally recognized, legitimate though often nasty and harsh government of Syria.

As part of the anti-Assad struggle, the US sought to maintain an autonomous area for the Syrian Kurds in northern Syria along the Turkish border. The hope was that it would remain an enclave of opposition to Assad and a base of US power within a divided Syria.

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Which brings up the sad issue of the Kurds. What about Kurdish militia assistance in the struggle against ISIS? There is no doubt that the Syrian Kurds were effective in that struggle. But, it is not as if the Syrian Kurds are the only forces who can fight the now motley dregs of the Islamic Caliphate (ISIS). Assad, Russia, Iraq and Iran all have every reason in the world to see ISIS expunged off the map — long after the US and the Kurds are out of the picture. The Kurds are not essential to that picture.

Under these circumstances, I believe that President Trump is justified in pulling out US forces from Syria as part of an ongoing process of bringing a gradual end to Washington's endless wars. This war no longer serves any real purpose except to destabilize Syria, perpetuate its brutal civil conflict and provide an excuse to keep US troops on the ground and strengthen Iranian and Russian involvement in the struggle. Its refugees have helped destabilize EU politics. In terms of Trump's so-called "gift to Putin," the Russians have had a dominant foothold in Syria for many decades. So, there's not much new here.

It is indeed hard to keep track of the Syrian situation since there are so many players, each with their own agenda. Whose narrative you choose to identify with in this mess depends on what your agenda is in Syria.

Do you favor the Israeli agenda? Keep Syria permanently weak, divided, and without allies. Do anything that will hurt Iran. Maintain Israel as the dominant Middle Eastern power.

Like Russia's agenda? Russia is successfully working to regain its former centuries' old role in the Middle East in general — a position that briefly collapsed twenty years ago with the end of the USSR. Russia's agenda is above all driven by its strong opposition to any further US attempts at engineering regime change by coup against any and all governments globally that the US does not like. Remember that US intervention in Syria has not been sanctioned by international law, whereas both Russia and Iran were both formally invited to come in and assist the legally recognized Syrian government.

But, there is another striking feature of Russian diplomacy: it

also seeks to maintain working ties with all, repeat *all*, players in the Middle East including seemingly incompatible ones: good ties with Israel, Saudi Arabia, Iran, Turkey, Cyprus, Lebanon, Qatar, the UAE, Yemen, the US, etc. At the same time, the US has refused to maintain any such comprehensive working ties across the region with forces it does not

like. Hence, it refuses to talk with key players like Iran, Syria and Hizballah or countenance a Russian role there. That kind of US posture has above all "served Putin" who has emerged as a master of regional diplomacy and compromise.

Turkey above all wants to keep the lid on all Kurdish political forces in the region that might facilitate Kurdish separatism inside Turkey, where the biggest Kurdish population in the Middle East lives. Hence, the Turkish effort to invade the Syrian Kurdish enclave. The Kurds there ultimately saw the handwriting on the wall and opted to come to terms with the regime in Damascus. That moment had to come.

How do we sum up Washington's agenda? Mixed. First, it supports almost anything Israel wants in the region. Second, it supports almost anything that will weaken and destabilize Iran, and hence anything that will weaken and destabilize Assad's Syria. Then the US supports Saudi Arabia in almost all its adventurist policies across the region and in keeping Yemen in bloody turmoil. The US also seeks to keep ISIS at bay, but so do Syria, Russia, Iran, Iraq and Turkey. Then Washington seeks by almost any means to weaken Russia and Iran's position in the region. It also hopes to keep Turkey "loyal" to US goals in the region — a vain hope. Finally, it seeks to maintain US hegemony in the Persian Gulf under the pretext of protecting the free flow of oil. Of course, all Gulf producers want to sell their oil. And Asian consumers, such as India, China, Japan, Korea, Taiwan and others, have a far higher stake in keeping the oil flowing. So, protecting those Asian shipping lanes (which has not really been necessary anyway) is most appropriately handled by them.

As for Iran, it is determined to maintain allies in Yemen, Lebanon, Iraq and Syria to the extent that it can. These allies are mainly important in a defensive operation against a concerted Israeli-Saudi-American drive to weaken Iran and all Shi'a across the region. Iran is only strong in its Shi'a identity to the extent that it is attacked for being Shi'a. So, Iran will seek to protect Shi'a populations in the region from oppression and discrimination from Sunni regimes, especially Saudi Arabia. Iran has no brief for the autonomy of any of the Kurds in the region lest it stir up Iran's own very

significant Kurdish population.

Iraq has so far been a small player on the regional state, but it will gain importance with every passing year as it struggles to reestablish a viable Iraqi state after the country was decimated by the US-led long war in Iraq.

What about the Kurds themselves, a highly complex and diverse force in the region? The Kurds are not united and may never attain unity. Kurds, after all, have been socialized within four different countries (Turkey, Iraq, Iran and Syria) where they speak three quite different languages (Turkish, Arabic and Persian). Among themselves, they speak fairly distinct dialects of Kurdish in different regions. Kurds have dreamed of independence for over 100 years (one of the biggest ethnic groups in the world without an independent state), but they have been constantly thwarted by regional and international powers and have never been able to settle upon a common strategy. They have consistently been tactically exploited and utilized by outside powers for over a century (UK, US, France, Israel, Iran, Turkey and Syria) when they have periodically served the geopolitical purposes of those states. They have been routinely promised support for greater Kurdish autonomy, and then, when they outlive their usefulness, they have been routinely thrown to the winds. The US is only the latest state to “betray” the Kurds, by abandoning them this time — and the US did the same many decades ago under Henry Kissinger who joined the Shah in using them against Saddam Hussein and then discarding them to their fate.

The Syrian Kurds had hoped the US war party in Washington would embrace their cause indefinitely. They are certainly disappointed that has not happened, but they cannot have been surprised when the US eventually decided to abandon them when the Turks, Russians and Syrians all decided to put an end to their autonomous enclave in the name of a unified Syrian state.

Ultimately, Kurdish-Turkish rapprochement within Turkey is far from an impossible task, but it will take some time. There is a groundwork from the past to be built upon. Once relations with Turkey’s own Kurds inside Turkey have been regularized, Turkey will likely be far more relaxed about the Syrian Kurds, who in any case will need to settle on an arrangement for some kind of modest local status in Syria. Turkey, after all, came to accept an autonomous Kurdish zone in Iraq and has deep economic relations with it.

The most vociferous voices in Washington for sticking by the Kurds in Syria come from several sources. First, from

those who reflexively oppose any policy of Trump under any circumstances anywhere. Second, those interventionists who seek to maintain US armed presence in the region at almost all costs — the untiring US global task in their eyes is never finished. Third, there are many who want to keep Israel strategically happy and empowered.

The interventionist crowd in Washington wants the US in Syria indefinitely as proof of our “credibility” to fight everybody’s war and to maintain American “leadership” — read hegemony — in the region. Sadly, the prolonged war agenda would not seem to do anybody in the region any good, including the US.

About the Author

Graham E. Fuller is a former senior CIA official and former vice chairman of the National Intelligence Council at the CIA, in charge of long-range strategic forecasting. He is currently adjunct professor of history at Simon Fraser University in Vancouver, British Columbia, and is the author of numerous books on the Muslim world. His first novel is “Breaking Faith: A Novel of Espionage and an American’s Crisis of Conscience in Pakistan,” and his second novel is “BEAR — A Novel of Eco-Violence in the Canadian Northwest.”

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