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# Responses to the Five Questions

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## RESPONSES TO THE FIVE QUESTIONS

John Hursh<sup>†</sup>

1. TEN YEARS AFTER 9/11, WHAT IS THE MOST SIGNIFICANT LEGACY LEFT BY THE TERRORIST ATTACKS? ARE WE SAFER?

The most significant legacy left by the 9/11 attacks is the fundamentally altered way that the U.S. government engages both with its citizens at home and with the international community abroad. Indeed, the United States' response to the 9/11 attacks forever changed the relationship between the American state and its citizens. Immediately following 9/11, American citizens came together in great solidarity and the nation enjoyed overwhelming support and sympathy from the international community. Less than eighteen months later, the Bush Administration's decision to invade Iraq divided the nation and robbed the United States of this support and sympathy.

The solidarity displayed by American citizens and the initial outpouring of nationalist sentiment was not surprising given the nature of the 9/11 attacks. In fact, the galvanization of public opinion following 9/11 finds historical precedent in the American public's reaction to the attacks on Pearl Harbor nearly sixty years earlier.<sup>1</sup> What is surprising is that ten years after the 9/11 attacks, the United States remains engaged in two large-scale, but vaguely defined missions abroad that blend armed conflict, counterinsurgency, intelligence gathering, diplomacy, and nation building. Equally surprising is the number of unresolved U.S.

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1. Joe Kleinsasser, *Pearl Harbor, 9/11 Attacks Have Similarities, Differences*, WICHITA ST. U. (Sept. 6, 2011, 10:54 AM), <http://www.wichita.edu/thisis/wsunews/news/?nid=1564> (quoting John Dreifort, a history professor at Wichita State University) (“[P]ublic opinion was galvanized in the aftermath of both attacks, and this was aided by presidential speeches that drew public support for action against the aggressors.”).

domestic policies that are necessary to prevent future attacks. Vital legal and policy questions as wide-ranging as immigration reform, the prosecution of alleged terrorists, and the protection of fundamental constitutional safeguards lack definitive answers. Moreover, while addressing any of these questions requires a complex assessment of numerous costs and benefits, nearly all attempts to address these issues have been seriously hampered by political divisiveness and a lack of political leadership. Nonetheless, that so many key questions directly affecting national security remain unresolved is troubling.

Domestically, the U.S. government—first under the Bush Administration and now under the Obama Administration—continues to engage in national security policies that undermine core civil liberties. The indefinite detention of alleged terrorists and the killing of U.S. citizens without meaningful due process<sup>2</sup> illustrate just how far national security policy has shifted. Enacting such policies before 9/11 is nearly unimaginable. Less dramatic policies, such as the way Americans move through airports or risk imprisonment by donating to the wrong charitable organization, further underscore the dysfunctional relationship between the American state and its citizens.

Indeed, the domestic legacy of 9/11 is perhaps best epitomized by a culture of fear and distrust that pervades American society a decade after the attacks. The sweeping executive power enshrined in the Patriot Act, a continued lack of accountability for the U.S. officials that authorized, legitimized, or engaged in torture, and the erosion of due process and the rule of law demonstrate the U.S. government's post-9/11 state of mind.<sup>3</sup> Adding to this fear and distrust is the refusal of the U.S. government to provide meaningful information regarding its actions at home and abroad. For example, when criticizing the drone strike in Yemen that killed U.S. citizen Anwar al-Awlaki, Yale University law professor Bruce Ackerman notes, "Obama's fellow citizens can't begin to judge his actions on the basis of the shallow news releases and public commentaries provided by his

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2. Bruce Ackerman, *Obama's Death Panel*, FOREIGN POL'Y (Oct. 7, 2011), [http://www.foreignpolicy.com/articles/2011/10/07/obamas\\_death\\_panel?page=0,0](http://www.foreignpolicy.com/articles/2011/10/07/obamas_death_panel?page=0,0).

3. See Daniel Larison, *The Real Legacy of 9/11*, THE WEEK (Sept. 12, 2011, 2:47 PM), <http://theweek.com/bullpen/column/219171/the-real-legacy-of-911>.

spokespeople—and rumors only make the situation worse.”<sup>4</sup>

Ackerman’s criticism is telling, as it speaks to a larger and more profound alienation between state and citizen. From the Bush Administration’s failed Operation TIPS to the Obama Administration’s reaffirmation of an extremely expansive use of the state secrets privilege, American citizens are encouraged to monitor their fellow citizens, but are unable to hold government officials accountable. These legal strategies foster distrust between citizens and the government at the expense of meaningful dialogue and political participation. President Obama’s decision to adopt the Bush Administration’s expansive use of the state secrets privilege is especially damaging to efforts that would rebuild trust between the U.S. government and its citizens. As the Center for Constitutional Rights states:

The abuse of the state secrets privilege undermines the very idea of an independent judiciary; contradicts the core idea of judicial review, in which independent judges make independent evaluations of all of the facts; and essentially allows the executive branch to dictate to the federal courts what cases they can and can’t hear.<sup>5</sup>

Internationally, the reputation of the United States has yet to fully recover from the 2003 Iraq invasion.<sup>6</sup> The Bush Administration’s disregard of fundamental principles of international law and global governance combined with its belligerent and arrogant tone strained political allegiances and greatly diminished the United States’ standing within the international community. The Administration’s unilateral “go-it-alone” foreign policy allowed the United States to react to national security threats more quickly, but it also demonstrated that in the twenty-first century’s increasingly interdependent global society, no nation—regardless of its military, economic, or political might—can accomplish its national security goals without international cooperation. A unilateral foreign policy also inevitably lacks oversight and may result in outcomes that would most likely not

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4. Ackerman, *supra* note 2.

5. *100 Days: End the Abuse of the State Secrets Privilege*, CTR. FOR CONST. RTS., <http://ccrjustice.org/learn-more/faqs/100-days%3A-end-abuse-state-secrets-privilege> (last visited Apr. 21, 2012).

6. Gregor Peter Schmitz, *Bush’s Tragic Legacy: How 9/11 Triggered America’s Decline*, SPIEGEL ONLINE (Sept. 9, 2011), <http://www.spiegel.de/international/world/0,1518,785405,00.html> (“Even in foreign policy, the world power is no longer seen as the world’s role model.”).

occur during multilateral operations. Human rights abuses, most notably torture committed by American personnel at Abu Ghraib, Guantánamo Bay, and Bagram Air Force Base, offer a stark reminder of the need for international cooperation and multilateral oversight.<sup>7</sup>

Despite this culture of fear and distrust, Americans are safer now than they were before the 9/11 attacks. Although there are several reasons for this increased safety, the most significant reason is largely outside of the control of U.S. policymakers. While improved intelligence and better security measures have no doubt contributed to a safer United States, the overwhelming rejection of political violence by Muslims living in Islamic states<sup>8</sup> has made the decisive difference in creating a more secure America. Of course, recent events such as Umar Farouk Abdulmutallab's attempt to detonate an explosive device on a plane bound for Detroit, demonstrate that al Qaeda and similar organizations are still actively trying to kill Americans. Accordingly, it would be a mistake to reduce funding for the intelligence community or to relax current security safeguards. It would be a much larger mistake, however, to ignore the lesson that the Islamic world's overwhelming rejection of violent ideologies has provided. Once again, history reminds us that occupation—no matter how well intentioned—simply will not create the results that the occupier intends. Rather, by encouraging internal reform and by offering technical assistance and partnership, U.S. policymakers create allies, build strategic relationships, and cultivate an environment much more conducive toward accomplishing national security objectives.

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7. John R. MacArthur, *The Sad Legacy of Sept. 11*, HARPER'S MAG. (Sept. 10, 2011), <http://harpers.org/archive/2011/09/hbc-90008237>.

8. Editorial, *The Legacy of 9/11*, BALTIMORE SUN (Sept. 11, 2011), [http://articles.baltimoresun.com/2011-09-11/news/bs-ed-sept-11-anniversary-20110911\\_1\\_qaida-osama-bin-laden-national-security](http://articles.baltimoresun.com/2011-09-11/news/bs-ed-sept-11-anniversary-20110911_1_qaida-osama-bin-laden-national-security).

[T]he majority of those living in the Middle East today have not embraced bin Laden's world outlook. If anything, the region has become somewhat more democratic than before, with several of its oppressive leaders swept away in the Arab Spring—not by terrorism but through civil uprising, rallying not over U.S. actions but more fundamental problems of poverty, food prices and lack of democratic institutions.

*Id.*

2. WHAT IMPACT WILL THE “ARAB SPRING” HAVE ON AMERICAN NATIONAL SECURITY?

The impact of the Arab Spring on American national security will be significant. Perhaps most importantly, U.S. policymakers will have to confront Islamist politics in a meaningful way. The time of U.S.-backed autocrats supplying reliable oil in exchange for hands-off American foreign policy is nearing an end. Supporting repressive Arab leaders who argue that their countries are not ready for democracy—the so-called Algerian Scenario<sup>9</sup>—remains a shortsighted strategy, and as the Arab Spring has demonstrated, such tactics only alienate the country’s population from the United States. Moreover, this strategy is unsustainable. If the Arab Spring has provided only a single lesson, it is that repression will eventually lead to revolt.

Moderate Islamist political organizations, often unofficially, have long garnered the most political support in several Islamic states. In contrast, secularism writ large has failed to gain the traction that many U.S. policymakers and commentators have long hoped that it would. The Arab Spring will show whether U.S. officials can respect democratic outcomes that result in elected leaders and political decisions that the United States would rather avoid. Historically, the United States has shown an unwillingness to accept democratically elected Islamist leaders. Take, for example, the response of the United States to the Hamas electoral victory in 2006. U.S. officials did not recognize the legitimacy of this result or attempt to move Hamas from an organization that engaged in political violence to a legitimate political actor, such as the reintegration of the Irish Republic Army in Northern Ireland. Instead, the United States planned to overthrow Hamas—a democratically elected government.<sup>10</sup> Obviously, such a tactic is a clear violation of state sovereignty and international law. It is also deeply hypocritical.

Given such foreign policy approaches, it is unsurprising that U.S. policymakers are still struggling to reengage with Arab leaders to regain trust and influence within the region. President Obama’s

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9. See Francesco Cavatorta, *Alternative Lessons from the ‘Algerian Scenario’*, 2 PERSP. ON TERRORISM 7 (2008).

10. Suzanne Goldenberg, *US Plotted to Overthrow Hamas After Election Victory*, GUARDIAN (Mar. 3, 2008), <http://www.guardian.co.uk/world/2008/mar/04/usa.israelandthepalestinians>.

Cairo Speech<sup>11</sup> was a positive step toward regaining this trust, but recent polls show that the approval ratings of the United States within the region have plummeted since this speech.<sup>12</sup>

As usual, the largest obstacles to regaining trust and influence in the Arab world are U.S. foreign policy toward Israel and the U.S. role in the Israeli-Palestinian conflict. Inevitable changes resulting from the Arab Spring will only make navigating these issues more difficult. Foreign policy experts have already noted the cooled relationship between Egypt and Israel.<sup>13</sup> Likewise, the Palestinian push for recognized statehood in the United Nations General Assembly and the United States' unnecessarily preemptive and rigid response to this proposition will only exacerbate the difficulty of navigating these issues.

Strained foreign relations with Arab states will make achieving national security objectives increasingly difficult. Implementing and executing national security programs requires trust and cooperation between states. The United States risks losing or at least significantly compromising its ability to rely on the cooperation of allies throughout this key region unless it adopts more balanced policies regarding the Israeli-Palestine conflict. Likewise, American attempts to influence the political process through extra-legal means risk not only diplomatic embarrassment but also national security failure by denying U.S. officials key information and access within the region.

Fortunately, the Arab Spring presents opportunities as well as challenges for American national security. Most importantly, the Arab Spring provides the United States with an opportunity to reset its role in the Israeli-Palestinian negotiations and to recalibrate its relationship with both Israel and Palestine. A genuine recommitment to supporting the creation of a Palestinian state will result in a more secure Middle East and North Africa—as well as a more secure Israel and United States. In addition, by supporting democratically elected leaders, the United States will demonstrate a commitment to respecting state sovereignty and not overplaying its

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11. President Barack Obama, Remarks by the President on a New Beginning (June 4, 2009) (transcript available at <http://www.whitehouse.gov/the-press-office/remarks-president-cairo-university-6-04-09>).

12. ARAB AM. INST. FOUND., ARAB ATTITUDES, 2011, 1 (2011), available at [http://aai.3cdn.net/5d2b8344e3b3b7ef19\\_xkm6ba4r9.pdf](http://aai.3cdn.net/5d2b8344e3b3b7ef19_xkm6ba4r9.pdf).

13. Abdel Monem Said Aly & Shai Feldman, *Testing the Resilience of Egyptian-Israeli Peace*, 56 MIDDLE EAST BRIEF 1, 2 (2011), available at <http://www.brandeis.edu/crown/publications/meb/MEB56.pdf>.

hand within the region—a lesson that U.S. policymakers continually fail to appreciate. Unfortunately, while the Arab Spring provides opportunities to strengthen diplomatic ties that will aid national security, the United States has not yet embraced these opportunities.

### 3. WHAT LESSONS CAN BE LEARNED FROM THE OBAMA ADMINISTRATION'S HANDLING OF THE AHMED WARSAME CASE?

The most important lesson to learn from the Obama Administration's handling of the Ahmed Warsame case is not to make easy decisions into hard decisions. The Obama Administration deserves praise for making the correct legal and policy decision to try Ahmed Warsame in a civilian court. However, the Administration also deserves criticism for initially detaining Warsame indefinitely and without charge. Ultimately, the Obama Administration made the correct decision, but Warsame's two-month "temporary, indefinite" detention aboard a U.S. naval vessel mars this decision.<sup>14</sup> Warsame's detention adds unnecessary legal challenges to his trial and undermines President Obama's commitment to ending extra-legal detention.

There are three key legal issues regarding the Warsame case. The first issue is whether the Obama Administration had the legal authority to detain Warsame. Obama Administration officials claim that international humanitarian law justified Warsame's detention,<sup>15</sup> but this claim is tenuous at best. Although the Obama Administration has not yet explicitly stated what legal authority allowed for Warsame's detention, any explanation will likely involve a strained interpretation of the law. U.S. officials captured Warsame in international waters and he was not on any recognized battlefield. U.S. officials might argue that they can detain Warsame because he is somehow covered by the Congressional authorization that allowed for military force against the perpetrators of 9/11,<sup>16</sup> but such a claim is not credible. Likewise, a claim that Warsame's

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14. Editorial, *Terrorism and the Law*, N.Y. TIMES (July 16, 2011), <http://www.nytimes.com/2011/07/17/opinion/sunday/17sun1.html> ("President Obama has created yet another parallel system of unlimited detention and interrogation without rights outside the constitutional norms that served us well for more than two centuries before the Bush Administration carelessly and needlessly tossed them aside for terrorism cases after Sept. 11, 2001.").

15. *Id.*

16. Authorization for Use of Military Force, Pub. L. No. 107-40, S. J. Res. 23, 107th Cong. (2001) (enacted).



alleged connection to al Shabaab or al Qaeda in the Arabian Peninsula somehow justifies his detention also lacks credibility, as the United States is not engaged in armed conflict with either organization and the Administration's claim that it may target or detain members of these organizations is dubious.

The fact that the Obama Administration held Warsame on a naval vessel, rather than in Guantánamo Bay or in a U.S. prison, illustrates the legal failure of the current national security policy regarding detainment. Warsame's detainment is an ad hoc solution with questionable legal authority. While correctly refusing to recognize Guantánamo Bay as a legal option, the Obama Administration merely created a very similar legal loophole that likely will not withstand future scrutiny. In addition, it is deeply troubling to learn that U.S. officials have used this tactic previously to hold detainees until the Department of Justice can build a case against the detained.<sup>17</sup>

The Obama Administration is correct to close Guantánamo Bay and its decision to refuse to send new prisoners to that facility is laudable.<sup>18</sup> Guantánamo Bay remains a rallying point for extremists intending to harm the United States and a continued diplomatic obstacle. Moreover, military prosecutions at Guantánamo Bay have proven tremendously inefficient, while failing to demonstrate that they result in greater national security. Still, U.S. officials should have followed the law and simply arrested Warsame and charged him with a crime. U.S. officials clearly had enough information to arrest and charge Warsame. Further, Warsame's location in international waters provided U.S. officials the additional advantage of not needing to file an extradition request. It is unacceptable to detain individuals for an indefinite time in violation of U.S. and international law. Breaking the law to uphold the law is a defeatist strategy and an ineffective national security policy.

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17. Charlie Savage & Eric Schmitt, *U.S. to Prosecute a Somali Suspect in Civilian Court*, N.Y. TIMES (July 5, 2011), <http://www.nytimes.com/2011/07/06/world/africa/06detain.html> (noting Vice Admiral William H. McRaven, then commander of U.S. Joint Special Operations Command, stated that detainees are sometimes kept on Navy ships or detained in a third country until the Department of Justice can build a case against the detainee).

18. Colin Moynihan, *Somali Terrorism Suspect Appears in Civilian Court*, N.Y. TIMES (Sept. 8, 2011), <http://www.nytimes.com/2011/09/09/nyregion/terrorism-suspect-appears-in-civilian-court-in-ny.html> (statement of Deputy National Security Advisor John O. Brennan).

The second issue is interrogation. U.S. officials detained Warsame for more than two months, then, during a break from interrogation, invited an International Committee for the Red Cross representative to visit him before bringing in a new set of interrogators to begin a criminal investigation. Importantly, Warsame received a proper *Miranda* warning before the criminal investigation portion of his detainment began. While the Obama Administration deserves praise for making it clear that Warsame was now a criminal suspect with *Miranda* rights, the Administration also deserves criticism for making a simple criminal procedure unnecessarily difficult.

Warsame's interrogation will almost certainly present substantial challenges for federal prosecutors. It will be difficult to sort two months of inadmissible statements from later admissible statements. Warsame's lawyers have already indicated that they plan to challenge the admissibility of his statements due to the irregularities surrounding his detention and his *Miranda* warning. Again, these difficulties were easily avoidable, which makes the Administration's actions even more frustrating. In an interrogation during an armed conflict, the Geneva Conventions apply and interrogators may use techniques listed in the *Army Field Manual* and other compliant techniques. During a criminal investigation, *Miranda* warnings apply and criminal investigators must adhere to procedures that do not violate these rights. Sometimes it really is just that simple.

The Obama Administration's "public safety" delay in warning a suspect of his or her *Miranda* rights is very disappointing. As a *New York Times* editorial stated in July 2011:

Mr. Obama came to office vowing to stop these costly travesties of justice that so damaged America's international reputation. But he has steadily retreated, sometimes in the face of political opposition, sometimes on his own. Now he is drifting toward establishing his own system of extralegal detention and tainted questioning.<sup>19</sup>

The third issue is trial; or more specifically, balancing the national security need to collect intelligence with the need to adhere to the rule of law when deciding what type of trial the suspect will receive. Of course, U.S. officials should also select the

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19. *Terrorism and the Law*, *supra* note 14.

trial strategy with the greatest probability of securing a conviction. Given these criteria, it is difficult to understand why elected officials and commentators would argue that Warsame should receive a trial before a military commission, as all evidence suggests that convicting Warsame will be much easier and more probable in a civilian court.

The Center for Law and Security notes that between September 11, 2001 and September 11, 2009, U.S. officials have conducted 828 prosecutions of alleged terrorists in federal courts.<sup>20</sup> Of those 828 prosecutions, 593 cases have been resolved, resulting in 523 convictions and only 28 acquittals or dismissals.<sup>21</sup> This is a conviction rate of 88.2 percent. In rather striking contrast, trials before military commissions have resulted in six convictions,<sup>22</sup> all against minor figures. Trying Warsame in a military commission would require proving that he was an actual member of al Qaeda or that he was personally involved in plotting attacks on the United States. Proving either of these charges would be quite difficult. In comparison, in civilian court, federal prosecutors will only have to prove that Warsame provided material support to a terrorist organization to secure a conviction, a much easier proposition.

#### 4. OF ALL THE THREATS TO NATIONAL SECURITY, WHICH TYPE IS THE UNITED STATES LEAST PREPARED TO HANDLE? WHERE IS THE UNITED STATES MOST VULNERABLE TO ATTACK?

The United States is least prepared to handle a cyber security attack. While cyber security is the threat U.S. officials are least prepared to prevent or mitigate, the United States is most vulnerable not to a foreign attack, but to an internal collapse due to its weakened economic position, an overburdened military stretched too thin for too long, and wavering political support for continued military missions abroad among its citizens and foreign allies. Historians will find these vulnerabilities and this scenario quite familiar and commentators have already noted that such

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20. CTR. ON LAW & SEC., TERRORIST TRIAL REPORT CARD: SEPTEMBER 11, 2001–SEPTEMBER 11, 2009 1 (Jan. 2010), *available at* [http://www.lawandsecurity.org/Portals/0/documents/02\\_TTRCFinalJan142.pdf](http://www.lawandsecurity.org/Portals/0/documents/02_TTRCFinalJan142.pdf).

21. *Id.*

22. *Terrorism and the Law*, *supra* note 14 (“Two important goals must guide terrorist-related cases—eliciting information to thwart future plots and punishing the guilty. The overwhelming evidence from the past decade is that both are most reliably served by lawful interrogation and prosecution in civilian courts.”).

vulnerabilities have led to the decline of previous societies.<sup>23</sup>

Before continuing, it is important to distinguish preparedness from vulnerability. Preparedness is being prepared for a specific type of event, whereas vulnerability refers to being susceptible to a specific type of event. Thus, it is possible to be prepared but vulnerable. Likewise, it is also possible to be invulnerable, but unprepared. Finally, it is also possible to be both unprepared and vulnerable, which describes a worst-case scenario for national security officials. Here, the most important point is that while the United States may be unprepared to handle a particular type of attack or a particular set of circumstances, a different type of attack or a different set of circumstances may cause more harm even if the United States is more prepared for that type of attack or those circumstances. Thus, while the United States is least prepared for a cyber security attack, there are other types of attacks or contingencies, for which the United States is more prepared, that would cause greater harm should they occur due to particular U.S. vulnerabilities. This is the case now, as a serious cyber security attack, while capable of causing substantial harm, would not create the same amount of harm as an internal collapse.

Regarding cyber security, President Obama has stated that the growing number of cyber security attacks has become “one of the most serious economic and national security threats our nation faces.”<sup>24</sup> Perhaps the best explanation for cyber security unpreparedness is the very nature of these attacks, which remain largely hidden to policymakers and the American public. Watching a broadcast of a bombing that kills and injures civilians clearly demonstrates risk and danger. Creating public support to pressure policymakers and public officials to prevent those types of attacks is relatively straightforward given the visual image that such attacks create. The same is not true of cyber attacks, the danger of which is not easily conveyed to the public. The hidden nature of cyber attacks both lessens the perceived risk that these attacks pose and provides cover for the actors launching these attacks. In addition, global reliance on the internet and computer networks results in a

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23. Philip Slater, *The Folly of Bush's Go-It-Alone Policy*, HUFFINGTON POST (Jan. 2, 2008, 1:51 PM), [http://www.huffingtonpost.com/philip-slater/the-folly-of-bushs-goital\\_b\\_79271.html](http://www.huffingtonpost.com/philip-slater/the-folly-of-bushs-goital_b_79271.html) (“Most empires in the past went into decline because they exhausted themselves making war, and we seem to be headed down the same path.”).

24. *Cybersecurity*, U.S. DEPARTMENT OF HOMELAND SECURITY, <http://www.dhs.gov/files/cybersecurity.shtm> (last visited Apr. 21, 2012).

system that is always liable to attack. As the Center for Strategic and International Studies' James Andrew Lewis notes, the internet's connectivity provides "endless opportunities for mischief."<sup>25</sup> Similarly, the relative newness of the technology creates unpredictability, making planning national security defense that much more difficult.

Despite these challenges, it is imperative to develop a robust cyber security defense plan given the unavoidable reality of using the internet and computing technology. In the report, *Securing Cyberspace for the 44th Presidency*, the Commission states:

[W]e are in a long-term struggle with criminals, foreign intelligence agencies, militaries, and others with whom we are intimately and unavoidably connected through a global digital network; and this struggle does more real damage every day to the economic health and national security of the United States than any other threat.<sup>26</sup>

Security experts and policymakers must continue to address this national security threat. Likewise, political actors should follow President Obama's lead, noting the risk that cyber security unpreparedness creates and providing adequate funding to address this risk.

Admittedly, the threat of an internal collapse at first seems an unlikely possibility for the United States' most vulnerable point for attack. Since 9/11, however, the United States has suffered significant economic setbacks while regional powers have begun to emerge as future economic superpowers. Although the rise of China is a much-discussed topic regarding American national security,<sup>27</sup> the emergence of India and Brazil also merit serious discussion. The rise of these economic powers, combined with the decline of the United States' unchallenged economic superiority has shifted global economics to a multipolar system. Although this development will likely aid U.S. national security in the long-term,

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25. *Assessing the Threat of Cyberterrorism*, NPR (Feb. 10, 2010), <http://www.npr.org/templates/story/story.php?storyId=123531188>.

26. CTR. FOR STRATEGIC & INT'L STUDIES, COMM'N ON CYBERSECURITY FOR THE 44TH PRESIDENCY, *SECURING CYBERSPACE FOR THE 44TH PRESIDENCY* 77 (Dec. 2008), available at [http://csis.org/files/media/csis/pubs/081208\\_securingcyberspace\\_44.pdf](http://csis.org/files/media/csis/pubs/081208_securingcyberspace_44.pdf).

27. Lionel Barber, *The End of US Hegemony: Legacy of 9/11*, FIN. TIMES (Sept. 5, 2011), <http://www.ft.com/intl/cms/s/0/f6acfla6-d54d-11e0-bd7e-00144feab49a.html#axzz1emtp9Oel> (noting that Gerard Lyons, Standard Chartered Bank's chief economist, stated that the three most important words in the past decade were not "war on terror" but "made in China").

since greater wealth distribution typically results in less conflict,<sup>28</sup> this development will also create short-term challenges that U.S. national security officials must address.

Complicating this already difficult situation is the staggering national debt. Former Joint Chiefs of Staff Chairman Admiral Michael Mullen received substantial media attention when he stated that the national debt poses the single greatest threat to U.S. national security.<sup>29</sup> While other commentators had raised this argument before, Mullen's role as the top U.S. military officer legitimized this argument in a way that policy experts and think tank articles simply cannot. Put bluntly, when the leader of the world's most powerful military calls the national debt the single largest obstacle to national security, people take notice.

It is indisputable that the United States occupies a significantly weakened economic position now than it did on September 10, 2001. Contributing to the United States' economic decline is the cost of waging two wars for much of the past decade. War is expensive. A recent Congressional Research Service report placed a \$1.283 trillion dollar price tag on U.S. military operations within Afghanistan and Iraq since 9/11.<sup>30</sup> While this figure may not seem extraordinary given that the 2010 U.S. GDP exceeded \$14 trillion, this figure does not represent the substantial opportunity costs that waging these wars entailed.

Finally, economic production and, in turn, national security depend on access to natural resources. As Sharon Burke of the Center for a New American Security notes, "[i]n the 21st century, the security of nations will increasingly depend on the security of natural resources, or 'natural security.'"<sup>31</sup> Burke's point illustrates another challenge to American national security, as China seems

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28. See generally FAREED ZAKARIA, *THE POST-AMERICA WORLD* (2008) (discussing the sources of conflict in and between countries, including the distribution of wealth and the inequalities between people).

29. Michel J. Carden, *National Debt Poses Security Threat, Mullen Says*, ARMED FORCES PRESS SERV., U.S. DEPT. OF DEFENSE (Aug. 27, 2010), <http://www.defense.gov/news/newsarticle.aspx?id=60621>.

30. AMY BELASCO, CONG. RESEARCH SERV., RL 33110, *THE COST OF IRAQ, AFGHANISTAN, AND OTHER GLOBAL WAR ON TERROR OPERATIONS SINCE 9/11 10* (2011), available at <http://www.fas.org/sgp/crs/natsec/RL33110.pdf>.

31. Sharon Burke, *Natural Security* 9 (Ctr. for New Am. Sec., Working Paper, June 2009), available at [http://www.cnas.org/files/documents/publications/CNAS\\_Working%20Paper\\_Natural%20Security\\_SBurke\\_June2009\\_OnlineNEW\\_0.pdf](http://www.cnas.org/files/documents/publications/CNAS_Working%20Paper_Natural%20Security_SBurke_June2009_OnlineNEW_0.pdf).

more poised to secure vital natural resources in Africa<sup>32</sup> and already holds a near monopoly on some resources, such as rare earth metals that are essential for industrial production.<sup>33</sup>

Compounding these economic issues is a military clearly stretched too thin<sup>34</sup> with too many redeployments, a failing political appetite for missions abroad, and a nation strongly divided along partisan lines. Ten years after the 9/11 attacks, Americans are nearly as divided as they were united in late 2001, and perhaps the only widely agreed point between Americans is how poorly its elected government is performing.<sup>35</sup>

All of these factors point to a nation in real danger of an internal collapse. Of course, an internal collapse in the United States would not mirror an internal collapse in a developing country. Bloody riots and civil unrest are unlikely, but a moderate to gradual decline that dislodges the United States from its position as the world's lone superpower is possible. This moment will eventually come, as it does for all civilizations, but it is imperative that U.S. leaders work to prepare for this moment. Leaders must prepare the nation to be one of a handful of superpowers, rather than refuse to acknowledge this development and the reduced influence that such a development will entail. From a national security standpoint, this development will necessitate a refocusing on multilateral actions and international relationships. Certainly, some acts will not require the United States to seek global support and cooperation, but the great majority will. Beginning to construct a national security policy around this eventuality is necessary for the long-term good of the nation, and U.S. leaders must take the first step toward multilateralism at home by

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32. See generally CHRIS ALDEN, CHINA IN AFRICA: PARTNER, COMPETITOR OR HEGEMON? (2007) (discussing China's new foreign policy toward Africa, and Africa's support of China instead of the United States).

33. See generally CINDY HURST, INST. FOR THE ANALYSIS OF GLOBAL SEC., CHINA'S RARE EARTH ELEMENTS INDUSTRY: WHAT CAN THE WEST LEARN? (Mar. 2010), available at <http://www.iags.org/rareearth0310hurst.pdf>.

34. Bryan Bender, *Army Stretched Too Thin, Says General*, BOS. GLOBE (Sept. 27, 2011), [http://www.boston.com/news/nation/washington/articles/2007/09/27/army\\_is\\_worn\\_too\\_thin\\_says\\_general](http://www.boston.com/news/nation/washington/articles/2007/09/27/army_is_worn_too_thin_says_general).

35. Frank Newport, *Congress' Job Approval Entrenched at Record Low of 13%*, GALLUP (Nov. 14, 2011), <http://www.gallup.com/poll/150728/Congress-Job-Approval-Entrenched-Record-Low.aspx> ("At this point, approval of the way Congress is handling its job remains low among all Americans, regardless of their political party identification: Republicans, independents, and Democrats are all in a range of 11% to 15% approval.").

demonstrating that they can work together to strengthen the U.S. economy, reduce the strain on the military, and begin to regain the confidence of the American people.

5. WHAT FACTORS WILL HELP DETERMINE WHETHER AL QAEDA HAS BEEN DEFEATED?

Determining whether al Qaeda has been defeated will require assessing several factors, but the recent killing of Osama bin Laden satisfies one essential requirement. From a psychological standpoint, the defeat of al Qaeda required the capture or killing of bin Laden. Similarly, killing or capturing bin Laden was necessary for Americans to begin to move past 9/11 in a constructive way.

Other factors necessary for determining al Qaeda's defeat are the further capture or killing of al Qaeda's leadership and the continued depletion of the organization's financial resources. Without leadership or financial means, al Qaeda's ability to coordinate and complete large-scale and high-profile attacks is severely compromised. Recent developments suggest that the United States is on the cusp of satisfying these two criteria. The killing of Anwar al-Awlaki demonstrates that al Qaeda's leadership remains vulnerable to U.S. strikes, while evidence recovered in the raid that killed bin Laden suggest that al Qaeda desperately needs money to continue its operations.<sup>36</sup>

While these factors are necessary for determining al Qaeda's defeat, perhaps the most significant factor for determining al Qaeda's defeat is relevancy. When al Qaeda becomes an irrelevant organization that lacks operational effectiveness, it will have been defeated. A total defeat of al Qaeda is all but impossible. Still, a largely irrelevant al Qaeda will be a defeated al Qaeda.

Importantly, American citizens and U.S. policymakers must not conflate the defeat of al Qaeda, which may be imminent,<sup>37</sup> with the defeat of all extremist Islamic groups. Even as al Qaeda retreats, losing relevancy and operational capacity, anti-American and anti-Western sentiment continues, and other extremist groups will emerge to take al Qaeda's role.

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36. Elisabeth Bumiller, *Panetta Says Defeat of Al Qaeda Is 'Within Reach'*, N.Y. TIMES (July 9, 2011), <http://www.nytimes.com/2011/07/10/world/asia/10military.html>.

37. *Id.*