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Fractured Fairy Tale: The War on Terror and the Emperor's New Clothes

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I. THE INVISIBLE IRRATIONALITY OF THE WAR ON TERROR

The War in Iraq has become politically radioactive. It is a burden, not a boon, to any politician associated with it. Not so the War on Terror. It continues to attract the allegiance of every politician in the country, whether as a justification for keeping U.S. troops in Iraq (to win in the “central front” in the War on Terror), or as a justification for withdrawing them (to win the really crucial battles in the War on Terror at home and in Afghanistan). Both official rhetoric and practice, including wars abroad, massive surveillance activities, and colossal expenditures, have bolstered the reigning belief that America is locked in a death struggle with terrorism. Since 2001 the entire country, every nook and cranny, has been officially deemed to be exposed to at least an “elevated” risk of terrorist attack—“Threat Condition Yellow”—with episodes and particular locations sometimes labeled as Orange, meaning “severe” risk of terrorist attack. By mid-2006 the United States had spent at least \$650 billion dollars on the War on Terror, including expenditures linked to the wars in Afghanistan and Iraq. In the three years between October 2002 and October 2005, high-ranking Department of Defense officials gave 562 speeches with some version of the word “terror” in their titles. That means

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they gave 36 percent more speeches about terrorism than about Secretary of Defense Rumsfeld's signature theme (transformation of the military), 22 times more speeches about terrorism than about nuclear weapons, 43 times more than about proliferation, and 51 times more than about ballistic missile defense.²

What is true of the government and of politicians is also true of an American public which seems convinced of the potency of the threat and the necessity of the war. Five years after the 9/11 attacks, and despite the absence of attacks since then or of any evidence of serious preparations for an attack inside the country, 76 percent of Americans responded affirmatively to a New York Times/CBS News Poll that asked whether they believed "the terrorist threat from Islamic fundamentalism is constantly growing and presents a real, immediate danger to the United States"³ Sixty percent said they thought the United States should do more to try to prevent further terrorist attacks.⁴ Seventy-four percent said they were "somewhat" or "a great deal" concerned "about the possibility there will be more major terrorist attacks in the United States" (up from 71 percent three years earlier).⁵ Thirty-five percent said they were somewhat or a great deal worried that such an attack would harm them personally (a level of worry that has remained more or less constant since 2001).⁶ As instructive as these answers to polls are, even more enlightening are the questions. Of the scores, probably hundreds, of polls done regarding the prosecution of the War on Terror—how it should be conducted, how well the government is doing, how important to it is the Iraq War, how much more should be done in it—it is difficult, indeed, impossible to find a survey by a major American polling organization that has even asked the question "Do you think there should be a War on Terror?"

Of course popular perceptions are not molded or sustained only by the speeches and actions of government officials and

2. U.S. Department of Defense, Speeches, <http://defenselink.mil/speeches/index.aspx> (last visited Feb. 01, 2007) (research on file with author).

3. PollingReport.com, War on Terrorism, CBS News/New York Times Poll (Sept. 15–19, 2006), <http://www.pollingreport.com/terror.htm>.

4. PollingReport.com, War on Terrorism, ABC News Poll (Sept. 5–7, 2006), <http://www.pollingreport.com/terror.htm>.

5. *Id.*

6. *Id.*

politicians, nor only by the narratives and assumptions of the news media—though the news media too has been a major cheerleader for the War on Terror. The entertainment industry—in novels, television shows, films, and made for T.V. movies—has hyped the fears that fuel the War on Terror and keep it alive. Thus has the War on Terror embedded itself into popular culture. Both Hollywood and the television networks have plunged aggressively into the preparation and distribution of films and television dramas depicting threats of catastrophic terrorism. These have included the film *The Sum of All Fears*, featuring the destruction of Baltimore by a nuclear bomb smuggled into the country by terrorists; *Face of Terror*, about a Palestinian terrorist bomber in Spain; *Antibody*, about an international terrorist with access to a nuclear detonator; *American Heroes: Air Marshal*, about a jetliner hijacked by terrorists with ambitious plans; *When Eagles Strike*, about terrorists who kidnap an American senator; and *Blast!*, about terrorists who take over an oil rig to detonate an electromagnetic bomb over the United States. A quick survey of a bookstore in Philadelphia International Airport in the summer of 2005 revealed that of 35 paperback novels for sale to travelers waiting to board their planes, seven shared fundamentally the same plot—imminent disaster at the hands of maniacal terrorists that might still be thwarted by courageous counter-terrorist action. These 20 percent included Tom Clancy's *Splinter Cell*, Michael Crichton's *State of Fear*, Dan Brown's *Deception Point*, James Patterson's *London Bridges*, and Robert Ludlum's the *Lazarus Vendetta*.

Made-for-television movies on these themes were also plentiful. These included *Winds of Terror* (2002), about a biological weapon attack on the United States; *Operation Wolverine: Seconds to Spare* (2003), about terrorists hijacking a train to release enough poison gas to destroy a large American city; *The President's Man 2: A Line In the Sand* (2002); about a secret agent's effort to foil terrorists constructing a nuclear weapon; *Smallpox 2002: Silent Weapon* (2002), about a bioterrorist smallpox attack; *The Pilot's Wife* (2002), about the terrorist bombing of a 747 airliner; *Counterstrike* (2003), about terrorists with a nuclear weapon who hijack the Queen Elizabeth II luxury liner; *Critical Assembly* (2003) in which a nuclear bomb produced by students is stolen by terrorists; and *Tiger Cruise* (2004), about a navy ship's reaction to the 9/11

attacks. Of all the made-for-television movies and theatrical releases dealing with terrorist themes in recent years, however, there is probably no movie that has had a wider viewership than *Dirty War* (2004), an extremely realistic docudrama depicting Middle Eastern terrorists who detonate a radioactive "dirty bomb" in London. Produced by the BBC and originally aired in Britain, the film was then delivered to HBO in the United States, which broadcast it repeatedly in early 2005.

During the regular viewing seasons of the past few years, television viewers have been treated to half a dozen new shows about terrorism and/or specialized military, intelligence, and law enforcement agencies fighting terrorists. These programs have included: *The Agency* (CBS); *NCIS* (CBS); *Threat Matrix* (ABC); *Alias* (ABC); *The Unit* (CBS); and most popular of all, *24* (Fox). The entire 2005 season of *24* was devoted to a story line involving a sleeper cell of Middle Eastern terrorists in the United States that unleashes a nuclear-tipped missile against a major American city.⁷ In December 2005 the Showtime cable channel presented a miniseries about Islamic terrorists in the United States entitled *Sleeper Cell*. As Michael Ealy, the star of the show, put it: "This show is about the reality of the Beast that we're fighting right now, on many fronts."⁸ A continuation of the *Sleeper Cell* series was scheduled for December 2006.

What accounts for the prominence of the terrorist threat in the American imagination and the stupendous success of the War on Terror as a political program? Frame of reference for policy? Certainly it is not the scale of the threat to the homeland. Since 9/11 there has been no evidence of any serious terrorist threat from Islamic extremists inside America, no sleeper cells, no attacks, no serious planning or preparation for an attack. Major university studies have reported that 82 percent of all cases presented for prosecution to district attorneys by the FBI or other law enforcement agencies have been rejected as lacking sufficient evidence to proceed with prosecution.⁹ In the two years after the 2001 attacks the

7. See Spencer Ackerman, *How Real is "24"?*, SALON, May 16, 2005, <http://www.salon.com/ent/feature/2005/05/16/24/index.html> (analyzing the distance between *24's* fictionalized world and the actual world of counter-terrorism in America).

8. John Crook, *'Sleeper Cell' Crosses the Line*, ZAP2IT, Dec. 03, 2005, http://www.tv.com/tracking/viewer.html&ref_id=28827&tid=80733&ref_type=101.

9. See, e.g., Transactional Records Access Clearing House, Syracuse University, Criminal Terrorism Enforcement in the United States During the Five

median sentences handed out to those found guilty under the terrorism laws was 28 days.¹⁰ In the subsequent two years the median sentence for those (few) found guilty has been 20 days.¹¹ These figures reflect the fact that the great majority of these prosecutions are not really for terrorism offenses, but for telling untruths to law enforcement officers, visa violations, and the like.¹²

The absence of terrorist activities in the United States is all the more striking in light of three other considerations. First, "red-team" exercises, designed to test the effectiveness of anti-terrorism precautions against determined adversaries, regularly show how easy it would be for a motivated and minimally resourced terrorist to circumvent most measures that have been (or could be) put in place. Second, monthly if not weekly shootings in schools, malls, and office buildings, show how easy it would be for terrorists bent simply on killing Americans to do so. Third, the absence of very many successful prosecutions is even more compelling evidence than it otherwise would be of the virtual absence of a serious domestic terrorist threat considering first, the unprecedentedly exhaustive, constant, unrestrained, and heavily funded scrutiny of anyone American law enforcement agencies have had even the vaguest reason to suspect and second, the government's adoption of a general posture of "pre-emptive prosecution."¹³ For all these reasons, many Americans, including high-ranking officials and analysts, have found the absence of attacks to be truly puzzling.

At the end of this essay I will return to the question of al-Qaeda's motives as a partial answer to this puzzle. However, what has puzzled me more than the failure of al-Qaeda and its clones to attack again since 2001 is the related question of how, in the absence of evidence of a threat, to explain the War on Terror. What accounts for nearly universal allegiance of American interest groups to the War on Terror, the steady

Years Since the 9/11/2001 Attacks, <http://trac.syr.edu/tracreports/terrorism/169/> (last visited Feb. 01, 2007).

10. *Id.*

11. *Id.*

12. *See id.*

13. Amy Waldman, *Prophetic Justice*, THE ATLANTIC ONLINE, Oct. 2006, <http://www.theatlantic.com/doc/200610/waldman-islam> (discussing U.S. Government's adoption of a pre-emptive prosecution approach to terrorism). *See generally* JOHN MUELLER, *OVERBLOWN* (2006) (discussing the lack of evidence of a serious terrorist threat inside the United States).

polling numbers showing support for it, the often panicky concern that it is not being prosecuted successfully enough, its dominance of the political landscape, and the \$650 billion that we have so far spent on it? Answering these questions means understanding how the War on Terror was triggered, how it sustains itself, and how it conceals its irrationality.

II. THE WAR IN IRAQ AND THE WAR ON TERROR

The official mantra is that we fight in Iraq because it is the “central front in the War on Terror.” The exact opposite is the case. We are trapped in fighting an unwinnable and even nonsensical “War on Terror,” *because* its invention was required in order to fight in Iraq. When we were struck on September 11, 2001, the U.S. military budget was the equal of the military budgets of the next 24 most powerful countries. This military unipolarity sharply reduced the perception of the costs of military adventures, making it likely that the United States would fight some kind of war abroad. As such, the supremacist cabal led by Cheney and Rumsfeld and inspired by the Project for the New American Century (“PNAC”) sought a war in Iraq as the first stage of a radical transformation of U.S. foreign policy toward global American hegemony and military unilateralism. In the first eight months of the George W. Bush Administration, pragmatists in the State Department, the uniformed military, and the intelligence community checked the efforts of the cabal. However, when 9/11 produced an immense amount of political capital for a President peculiarly ready to accept the role offered him by the cabal, of anointed Churchillian savior in a global, epochal, “War on Terror,” the cabal had exactly what it needed. For as they spun it, the global war on terror divided the world into those “with us vs. those against us.” Coupled with the principle of pre-emption, this radical division of the world into our camp, and the enemy camp, rendered automatically any country or group not “with us” as subject to attack at will by the United States. Thus, although Iraq had absolutely nothing to do with 9/11, the cabal was able to devise and implement a formula linking the September 2001 attacks to its long-cherished goal—forcible regime change in Iraq as a model for a series of quick, neo-imperialist wars to revolutionize American foreign policy and thereby to serve Conservative political objectives at home.

Thus, the latent propensity of the United States to go to war, born of immense military preponderance, enabled the cabal to portray its long sought invasion of Iraq as a requirement of a global War on Terror.

The organizational centerpiece for the activities of this group before 2001 was the PNAC. Its chairman, William Kristol, is also editor-in-chief of the *Weekly Standard*, the magazine universally regarded as the neoconservative movement's mouthpiece.¹⁴ William Kristol and Robert Kagan published an informal manifesto of the PNAC in the Council on Foreign Relations' journal *Foreign Affairs* in the summer of 1996.¹⁵ "Conservatives," they warned, "will not be able to govern America over the long term if they fail to offer a more elevated vision of America's international role."¹⁶ The role they described for the United States was to establish a position of "benevolent global hegemony" and to preserve it "as far into the future as possible."¹⁷ The dual purpose of the muscular use of American hyper-power would be to destroy the "world's monsters" and engage in "empire management."¹⁸ To implement this post-Cold War vision and overcome the electoral advantages of Clinton-style platforms of multilateralism abroad and social democracy at home, Kristol and Kagan called for "[a] true 'conservatism of the heart'" that would "emphasize both personal and national responsibility, relish the opportunity for national engagement, embrace the possibility of national greatness, and restore a sense of the heroic"¹⁹ They claimed their "neo-Reaganite foreign policy . . . would be good for conservatives, good for America, and good for the world Deprived of the support of an elevated patriotism, bereft of the ability to appeal to national honor, conservatives will ultimately fail in their effort to govern America."²⁰

PNAC was the driving force behind Congressional passage

14. The *Weekly Standard*, About the *Weekly Standard*, <http://www.weeklystandard.com/AboutUs/default.asp> (last visited Feb. 01, 2007). Other prominent neoconservatives associated with the *Weekly Standard* include executive editor Fred Barnes and contributing editors Charles Krauthammer, Reuel Marc Gerech, and David Frum. *Id.*

15. William Kristol & Robert Kagan, *Toward a Neo-Reaganite Foreign Policy*, 75 FOREIGN AFF., July–Aug. 1996, at 18.

16. *Id.* at 20.

17. *Id.* at 20, 23.

18. *Id.* at 26–31.

19. *Id.* at 32.

20. *Id.*

of the 1998 Iraq Liberation Act. In January of that year PNAC had delivered a letter to President Clinton demanding war to remove Saddam Hussein's weapons of mass destruction (WMD) and to remove and replace Saddam and his regime as a crucial first step to transforming the Middle East.²¹ "We urge," said the letter:

[A] new strategy that would secure the interests of the U.S. and our friends and allies around the world. That strategy should aim, above all, at the removal of Saddam Hussein's regime from power [Including] a willingness to undertake military action as diplomacy is clearly failing [T]hat now needs to become the aim of American foreign policy.²²

In addition to the names of many of those who signed the PNAC statement of purpose, and who became high-ranking officials in the George W. Bush Administration (such as Donald Rumsfeld, Paul Wolfowitz, and Elliot Abrams), names on this letter also included Richard Perle (named chairman of the defense policy board), Richard L. Armitage (deputy secretary of state), John Bolton (undersecretary of state for arms control, later ambassador to the United Nations), and R. James Woolsey (former CIA director and member of the defense policy board).²³

Within a year after the 9/11 attacks, the neoconservative cabal got what it had sought for so long—a Presidential decision to invade Iraq.²⁴ Now, however, after years of slaughter in that country, the neoconservative/supremacist fantasy of a series of cheap, fast hegemony-building wars is dead. The War on Terror, however, born of the neoconservative cabal's need for a

21. Letter from Elliot Abrams et al., Project for the New American Century, to William J. Clinton, President of the United States (Jan. 26, 1998), <http://www.newamericancentury.org/iraqclintonletter.htm>.

22. *Id.*

23. *Id.* George Packer, *THE ASSASSIN'S GATE* (2005), discusses the background of some key neoconservative activists. Mark Gerson and Joshua Muravchik give the meaning of "neoconservative" a sympathetic treatment. See MARK GERSON, *THE NEOCONSERVATIVE VISION: FROM THE COLD WAR TO THE CULTURE WARS* (1996); Joshua Muravchik, *Neoconservative Cabal*, COMMENTARY, Sept. 2003, at 26. Anne Norton gives a very different view of "neoconservative." See ANNE NORTON, LEO STRAUSS AND THE POLITICS OF AMERICAN EMPIRE (2004). For Armitage's "defection" to the Powell camp that tried to block the PNAC agenda, he was widely regarded within the cabal as a political traitor.

24. See IAN S. LUSTICK, *TRAPPED IN THE WAR ON TERROR* 48–70 (2006) (discussing the decisiveness of inside-the-beltway brawl between the pragmatic and supremacist wings of the first George W. Bush administration).

justification for the invasion of Iraq that could link it to 9/11, lives on, stronger than ever. The question we are left with, then, is not how did the War on Terror begin, but how did it take on a life of its own and trap the entire political class, and most Americans, into public beliefs about the need to fight a global war on terror as our first priority, even when there's no evidence of an enemy present in the United States?

III. HURRICANE OSAMA

We may begin to understand the answer to this question by considering how Congress and state and local governments responded to the War on Terror. In the summer of 2003 a list of 160 potential targets for terrorists was drawn up, triggering intense efforts by Representatives and Senators, and their constituents, to find funding-generating targets in their districts. These pressures resulted in ever broader categories for listing what could be construed as potential targets of terrorism. The names of these lists changed rapidly between 2003 and 2005, from "Critical Assets," to "Protected Measures Target List," to "Critical Infrastructure/Key Resource List," to "National Asset Data Base." These widening categories enabled mushrooming increases in the number of "assets" (commonly identified by county governments throughout the country) deemed worthy of protection: up to 1849 in late 2003; 28,364 in 2004; 77,069 in 2005; and an estimated 300,000 in 2006 (including the Sears Tower in Chicago, but also the Indiana Apple and Pork Festival).²⁵

Across the country virtually every lobby and interest group cast their traditional objectives and funding proposals as more important than ever given the imperatives of the War on Terror. According to the National Rifle Association, the War on Terror means more Americans should carry firearms to defend the country and themselves against terrorists. In April 2002, NRA executive director Wayne LaPierre was reported to be celebrating "increased momentum since Sept. 11' for laws

25. See generally OFFICE OF INSPECTION AND SPECIAL REVIEWS, DEPARTMENT OF HOMELAND SECURITY, PROGRESS IN DEVELOPING THE NATIONAL ASSET DATABASE, (2006) (detailing the complex and confusing history of these lists); JOHN MOTEFF, CONGRESSIONAL RESEARCH SERVICE (2006) (detailing the complex and confusing history of these lists).

permitting concealed guns.”²⁶ After the attacks in September 2001, said LaPierre, “people are unsettled and have a fear of the unknown and of a threat that could come from anywhere, they’d rather face that threat with a firearm than without one.”²⁷ In 2003 the gun lobby announced a new program called NRASafe, described by LaPierre as involving all NRA members in a kind of national neighborhood watch program within the War on Terror.²⁸

As freedom’s keepers, we cannot be a passive observer in this *epic confrontation with evil*. I believe this great association has a unique role to play in homeland security. God helps he who helps himself, and nobody knows that better than NRA members. We understand that liberty requires eternal vigilance. Not just as a government, but as a people.²⁹

In point of fact, however, the gun lobby had been beaten to the punch by the gun control lobby. Within one week after the 9/11 attacks, gun control lobbying organizations began campaigns linking their long-standing policy preferences for increased restrictions on access to firearms to the need to protect the country against terrorism.³⁰ An extensive study sponsored by the Brady Center to Stop Gun Violence quoted Bush’s November 2001 speech to the United Nations: “We have a responsibility,” said the President, “to deny weapons to terrorists and to actively prevent private citizens from providing them.”³¹ That was all the anti-gun lobby needed to use the War on Terror for its own purposes. “Terrorists and guns go together,” reads the Brady Center study.³²

The gun is part of the essential tool kit of domestic and foreign terrorists alike. Guns are used to commit terrorist acts, and guns are used by terrorists to resist law enforcement efforts at apprehension

26. Steve Friess, *NRA Counts on 9/11 Momentum at Convention*, USA TODAY, Apr. 26, 2002 at 4A.

27. *Id.*

28. See Christy Allen, *The Second Amendment IS Homeland Security: American Gun Rights Activism post September 11, 2001* at 9–10, http://www.essex.ac.uk/sociology/postgraduates/6_allen.pdf (discussing how the larger movement of gun rights activists have changed their narrative to capitalize on the War on Terror) (last visited Feb. 02, 2007)

29. *Id.* at 9 (quoting author’s filed notes) (emphasis original).

30. See LOREN BERGER & DENNIS HENIGAN, BRADY CENTER TO PREVENT GUN VIOLENCE, GUNS AND TERROR: HOW TERRORISTS EXPLOIT OUR WEAK GUN LAWS (2001), <http://www.bradycenter.org/xshare/pdf/reports/gunsandterror.pdf>.

31. *Id.* at 3.

32. *Id.*

and arrest. The oft-seen file footage of Osama Bin Laden, aiming his AK-47 at an unknown target, is now a familiar reminder of the incontrovertible connection between terrorism and guns. For terrorists around the world, the United States is the Great Gun Bazaar.³³

The list of interest groups able to recast their long-sought objectives as imperatives of the War on Terror is virtually endless. Schools of Veterinary Medicine called for quadrupling their funding. Who else would train veterinarians to defend the country against terrorists using hoof and mouth disease to decimate our cattle herds?³⁴ Pediatricians declared that more funding was required to train pediatricians as first responders to terrorist attacks since treating children as victims is not the same as treating adults.³⁵ Pharmacists advocated the creation of pharmaceutical SWAT teams to respond quickly with appropriate drugs.³⁶ Aside from swarms of beltway bandit consulting firms and huge corporate investments in counter-terrorism activities, universities across the country created graduate programs in Homeland Security and dozens of institutes on terrorism and counter-terrorism, all raising huge catcher's mitts into the air for the billions of dollars of grants and contracts just blowing in the wind.³⁷

As these and other groups found counter-terrorism slogans effective in raising revenue, they became even more committed to the War on Terror, convincing those who had been slow to define themselves as part of the War, to do so quickly or lose out. The same imperative—translate your agenda into War on Terror requirements or be starved of funds—and its spiraling

33. *Id.*

34. Paul Gibbs, *The Foot-and-Mouth Disease epidemic of 2001 in the UK: Implications for the USA and the "War on Terror"*, 30 J. VETERINARY MED. EDUC. 121, 130–31 (2003).

35. Steven Krug, Chairman of Comm. on Pediatric Emergency Med., Am. Acad. of Pediatrics, Testimony before the Homeland Security Subcommittee on Emergency Preparedness, Science and Technology, Emergency Care Crisis: A Nation Unprepared for Public Health Disasters (July 26, 2006), http://www.aap.org/advocacy/washing/ER_readiness_testimonyFINAL.pdf (last visited Feb. 12, 2007).

36. See Letter from the Academy of Managed Care Pharmacy ET AL, to Max Baucus, U.S. Senator (Jan. 25, 2002), <http://www.amcp.org/data/legislative/analysis/21202.pdf> (last visited Feb. 12, 2007) (letter to Congress signed by eleven professional and trade associations linked to the pharmaceutical industry and listing this and other recommended measures).

37. See, e.g., Institute for Strategic Threat Analysis and Response (ISTAR), List of Scholars, <http://www.istar.upenn.edu/scholars/index.html> (one such initiative based at the University of Pennsylvania, where I teach, where I myself am listed as a resource person) (last visited Feb. 12, 2007).

consequences surged across the government, affecting virtually all agencies. Bureaucrats unable to think of a way to describe their activities in War on Terror terms were virtually disqualified from budget increases and probably doomed to cuts.³⁸ With billions of dollars a year in state and local funding, the Department of Homeland Security devised a list of fifteen National Planning Scenarios to help guide its allocations.³⁹ To qualify for Homeland Security funding state and local governments had to describe how they would use allocated funds to meet one of those chosen scenarios. What was the process that produced this list? It was deeply political, driven by competition among agencies, states, and localities who knew that funding opportunities would depend on exactly which scenarios were included or excluded—with anthrax, a chemical attack on a sports stadium, and hoof and mouth disease included, but attacks on liquid natural gas tankers and West Nile virus excluded. Most instructive of all, in this process, was the unwillingness of the government to define the enemy posing the terrorist threat. Why? Because once defined, certain scenarios, profitable for some competitors, would be disqualified. Thus the enemy, in these scenarios, is referred to as “the universal adversary,” in other words, as Satan. That is how the War on Terror drives the country from responding to threats to preparing for vulnerabilities, producing an irrational and doomed strategic posture which treats any bad thing that could happen as a national security imperative.⁴⁰

Of course this entire dynamic is accelerated by the principle of Cover Your Ass (CYA). Each policy-maker knows that if

38. See LUSTICK, *supra* note 23, pp. 71–114 (giving details and a plethora of examples of the dynamics of the “War on Terror whirlwind”).

39. David Howe, Senior Dir. for Response and Planning, Homeland Security Council, Planning Scenarios: Executive Summaries, July 2004, <http://cryptome.org/15-attacks.htm> (last visited Feb. 12, 2007).

40. *Id.* The executive summary of the National Planning Scenarios study explains the term “Universal Adversary” as follows: “Because the attacks could be caused by foreign terrorists; domestic radical groups; state-sponsored adversaries; or in some cases, disgruntled employees, the perpetrator has been named, the Universal Adversary (UA).” The authors of the study justify this abstraction by stressing that the “focus of the scenarios is on response capabilities and needs, not threat-based prevention activities.” What is instructive is the attempt to separate “responses” from threats. What could be more reinforcing for an ever-expanding War on Terror than imperatives to prepare for dangers of any kind, whether threats are perceived to exist or not, simply because when dealing with the “Universal Adversary,” anything is possible?

there is another attack, no one will be able to predict where and when it will be, but after it occurs it will be easy to discover who it was who did not approve some project or level of funding that could have prevented it. Every government official is perfectly aware of this asymmetry and perfectly aware also that the most attractive strategy in such a predicament is to endorse whatever option commits more resources to counter-terrorist efforts. In that way, if there is no attack, it can partially be explained by the wise (if expensive) precautionary measures taken. If there is an attack, at least the official who argued for exerting more effort or spending more money will not be blamed for the failure to prevent it.

Another powerful driver of the War on Terror whirlwind is competition among politicians. While Karl Rove and company systematically, explicitly, and successfully used accusations of Democrats suffering from a “pre-9/11 mentality” as his weapon of choice against them in the 2002 and 2004 elections, Democrats were irresistibly drawn to the same slogans. When it was reported that some American ports were to be run, in part, by a company associated with the Arab sheikhdom of Dubai, Democrats fell all over themselves excoriating President Bush for his obvious incompetence and even, perhaps, his lack of sanity, for making America even more vulnerable to terrorist attack. The absence of any evidence or expert evaluation suggesting that this measure was dangerous had little or no impact on this (successful) Democratic barrage. Similarly, it was the iconic status of the 9/11 Commission and not the actual importance or appropriateness of its analysis and advice, that led Nancy Pelosi to declare that in the first 100 days of a Democratic controlled congress every single one of the 9/11 Commission’s recommendations would be fully implemented.

Of course the real beneficiary of such overheated, hyper-politicized argumentation over who is more counter-terrorist than thou is the War on Terror itself. Its status as a national priority to which all politicians *must* pay homage is powerfully reinforced by such competition while its own irrationalities are shielded by an ever thicker protective belt of public catechisms required of any politician to avoid the tag of being “soft” or “pre-9/11” in the War on Terror.

Beyond the activities of lobbyists, interest groups, bureaucrats, corporations, and politicians, there is, however, no more important energy source for the War on Terror than the

media. I have already noted the contribution made by a flood of novels, films and television shows exploiting the thrills of imagined terrorism. But we must also appreciate the direct contribution to the War on Terror made by the news media. Consider what happens when a hurricane or a blizzard bears down on a large American city: the local news media has a field day. Ratings rise. Announcers are barely able to contain their excitement. Meteorologists become celebrities. They warn of the storm of the century. Viewers are glued to their sets. Soon, however, the storm hits and passes, or fizzles and is forgotten. Either way the "storm of the century" story ends. Ratings for local news shows return to normal and anchors shift their attention back to murders, fires, and auto accidents.

When it comes to the War on Terror, however, the "storm of the century," Hurricane Osama, as it were, is always about to hit, and never goes away. For the national media this is as good as it gets. The terrorist threat level is always and everywhere no less than "elevated." Absent any actual attacks or detectable threats, government agencies manufacture pseudo-victories over alleged or sting-produced plots to justify hundreds of billions of dollars worth of mostly silly expenditures. With every lost soul captured by the FBI presented as the latest incarnation of Mohammad Atta, the news media and the entertainment industry fairly exults, thriving on fears stoked by evocations of 9/11 and the ready availability of disaster scenarios too varied to be thwarted but too frightening to be ignored. Compounded by media sensationalism, these fears then provide irresistible opportunities for ambitious politicians to attack one another for failing to protect the terrorist target *du jour*: ports, border crossings, the milk supply, cattle herds, liquid natural gas tankers, nuclear power plants, drinking water, tunnels, bridges, or subways. The result of such sensationalist coverage, accompanied by advice from academic or corporate experts anxious to sell their counter-terrorism schemes to a terrified public and a cover-your-ass obsessed government bureaucracy, is another wave of support for increased funding for the War on Terror. But every precaution quickly produces speculation about work-arounds the terrorists could use, thereby fueling another cycle of anxiety, blame, expert counter-terrorist advice, and increased funding.

These are the vicious circles, the self-powering dynamics, that produce and reproduce widespread hysteria in America

over non-existent “sleeper cells” and over our real, but unavoidable, vulnerability to bad things happening. Such hysteria has not been seen here since the anti-communist frenzy of the McCarthy era. It is nothing short of humiliating that the country that was able to adjust psychologically, politically, and militarily to the real capacity of the Soviet enemy to incinerate our cities on a moment’s notice has been reduced to moaning, wasting resources, and spinning in circles, by ragged bands of Muslim fanatics.

IV. ESCAPING THE TRAP OF THE WAR ON TERROR

We have been, and are being, suckered, suckered big-time. Before the attacks, al-Qaeda was a shattered remnant of a failed movement, dropping into the dustbin of history, the equivalent of the Aryan Nations on the American political scene. But the diabolical strikes against the twin towers and the Pentagon saved the jihadis. Well, not really. What saved them from political oblivion and lifted them to protagonists declared as equivalent in potency and world-historic importance to Nazi Germany and Imperial Japan, was the American reaction to those attacks. Our invasion of Iraq, cast within a global War on Terror, was for them the “crusade” that makes their world of “jihad” appear not just real but compellingly real to hundreds of millions of Muslims. The Bush Administration launched the War on Terror, but it was a war fought according to Osama’s script. Now our army is broken and demoralized in an Iraq War that breeds al-Qaeda recruits and turns their propaganda into reality. Meanwhile the very strength of American democracy and free enterprise—motivating every faction in America to turn the War on Terror to its own interest—is hijacked and turned against us by our adversaries just as effectively as they hit us with our own airplanes on 9/11.

We wanted to arm wrestle with our enemies. Why not? We have more economic and military muscle than any state in history. But that is precisely why they fight us with judo, using our strengths against us. They hijack our planes to attack our buildings. They use our passionate patriotism to propel us in reaction into a war in the Middle East that exactly serves their interests, and was the main reason for their attack. And they hijack Madisonian democracy itself, to create a vortex of aggrandizing exploitation of the War on Terror for self-

interested agendas that spin our country out of control.

One of the things that the War on Terror does to defend itself is prevent itself from being known for the Emperor's Clothes phenomenon it fundamentally is. Aside from deterring those politicians and bureaucrats who understand the spectacular irrationality of the War on Terror from saying as much, the truth about its dynamics are concealed by suppressing knowledge of the real attributes, plans, capabilities, and aspirations of al-Qaeda. For if we knew and understood al-Qaeda and Osama bin-Laden properly, we would understand that a "War on Terror" is exactly not how we can combat that threat. For example, almost no one in America is aware of a passage at the end of his famous tape on November 1, 2004, released right before the election. Bin Laden said:

[I]t [is] easy for us to provoke and bait this administration. All that we have to do is to send two mujahidin [jihadists] to the furthest point east to raise a piece of cloth on which is written al-Qaida, in order to make the generals race there to cause America to suffer human, economic, and political losses without their achieving for it anything of note other than some benefits for their private companies

. . . .

So we are continuing this policy in bleeding America to the point of bankruptcy.

That being said . . . when one scrutinises the results, one cannot say that al-Qaida is the sole factor in achieving those spectacular gains.

Rather, the policy of the White House that demands the opening of war fronts to keep busy their various corporations—whether they be working in the field of arms or oil or reconstruction—has helped al-Qaida to achieve these enormous results.

And so it has appeared to some analysts and diplomats that the White House and us are playing as one team towards the economic goals of the United States, even if the intentions differ.

. . . . [F]or example, al-Qaida spent \$500,000 on the event [the 9/11 attacks], while America, in the incident and its aftermath, lost - according to the lowest estimate - more than \$500 billion.

Meaning that every dollar of al-Qaida defeated a million dollars by the permission of Allah, besides the loss of a huge number of jobs.⁴¹

41. Bin Laden, Speech Broadcast on Al-Jazeera (Nov. 1, 2004),

Know your enemy is the first rule of combat. The War on Terror conceals itself as our enemy by also concealing the true nature of al-Qaeda and its clones. For if we were able to base our policies on the actual capabilities, intentions, weaknesses, and potential strengths of Muslim extremists of the al-Qaeda variety, we would assuredly be able to develop a mode of vigilance and a plan of attack that would be both sustainable and effective. With no theory of our enemy whatsoever, apart from imagining we are faced with an all azimuth, constant, and utterly ruthless threat of attack from the "Universal Adversary," we find ourselves as if immersed in a pot of water atop a stove. Fearful that neighboring molecules might suddenly burst into steam we expend fruitless efforts scanning every molecule in sight, seeking ways to predict which one will burst into steam next in order to stop it before it does. Obviously, a more sensible strategy puts our emphasis on turning down the heat under the pot. This strategy calls for political action and diplomacy to engage the Muslim world as a whole on issues of mutual and practical concern, thereby isolating the jihadis from the mass of Muslims whose sympathies our War on Terror has so far helped transform in favor of the jihadis.⁴²

This will mean breaking the grip the War on Terror has on our political system and on the debate in America over how to respond to "terrorists with global reach." It means returning, as we did after overcoming the McCarthyist hysteria of the early 1950s, to a policy based on realistic assessments of our enemies' intentions, capabilities, and weaknesses, and on confident assessments of our own resilience as a nation. Until we do so, we will cripple our ability to focus properly on security problems that do exist, and instead remain trapped in the War on Terror.

<http://english.aljazeera.net/NR/exeres/79C6AF22-98FB-4A1C-B21F-2BC36E87F61F.htm> (last visited Feb. 12, 2007).

42. LUSTICK, *supra* note 23, pp. 140–45 (discussing American options in this regard).

