

# THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST- 9/11 WORLD

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*On the short walk from the motorcade to the classroom, Karl Rove mentioned that an airplane had crashed into the World Trade Center. That sounded strange. I envisioned a little propeller plane horribly lost . . . . After a few minutes, . . . Andy Card pressed his head next to mine and whispered in my ear. “A second plane hit the second tower,” he said . . . . “America is under attack.”*

—George W. Bush<sup>1</sup>

## I. INTRODUCTION

With the somber tenth anniversary of the world-infamous terrorist attacks of September 11, 2001 (“9/11”), now passed, the painful memories of that day grow ever more distant, and a new opportunity arises to reconsider many questions regarding the causes of these surprising terrorist attacks and their many adverse effects on the United States’ economy, politics, laws, military, foreign policies, and culture in a broader, historical context. The nature and almost complete success<sup>2</sup> of these catastrophic attacks by non-state actors caught the U.S. government and military completely off guard. Further, the attacks not only—and rather expectedly—reset the Bush Administration’s foreign policy agenda on a

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1. GEORGE W. BUSH, DECISION POINTS 126–27 (2010).

2. The attacks were arguably not a complete success given that the fourth plane, United Airlines Flight 93, did not hit its likely intended target of either the Capitol or the White House, thanks to the brave passengers on board who engaged in a fight with the hijackers and ultimately caused the plane to crash in a field in Pennsylvania instead. See PHILIP ZELIKOW ET AL., THE 9/11 COMMISSION REPORT 45 (2004).

new course, but they also strongly influenced the Administration's decision-making apparatus.

In the aftermath of the 9/11 attacks, the public expected the Bush Administration to respond swiftly and decisively.<sup>3</sup> Most of the Bush Administration's major foreign policy decisions that followed are well-known: the launch of the global War on Terror, the launch of the war in Afghanistan, the establishment of a detainment facility for terrorism suspects at Guantanamo Bay, and the launch of the War in Iraq.<sup>4</sup> While the Bush Administration may have had good intentions behind these foreign policy decisions, the last two of these enterprises proved to be especially controversial because of the reasons the Administration put forth to justify them, the actual processes of deliberation and decision making behind them, and the array of difficulties encountered in their successful implementation.

Many critics have accused the Bush Administration of having made foreign policy decisions that breached both international and domestic laws.<sup>5</sup> Additionally, many have attacked the Administration for having relied on seriously faulty intelligence assessments in decision-making processes, as well as for the failures of the nation's intelligence agencies to intercept the 9/11 hijackers.<sup>6</sup> As a result of a string of foreign policy decisions, which many have considered mediocre at best and extremely deficient at worst, a number of bewildered academics, politicians, and members of the general public have wondered profoundly how such terrible decision making could have possibly taken place at the top levels of

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3. Eric Schmitt, *After the Attacks: The Military; Administration Considers Broader, More Powerful Options for Potential Retaliation*, N.Y. TIMES, Sept. 13, 2001, at A15 ("Early public opinion polls show that Americans overwhelmingly favor a swift and forceful retaliation, even if it means casualties.").

4. See generally BUSH, *supra* note 1.

5. See generally Sean D. Murphy, *Assessing the Legality of Invading Iraq*, 92 GEO. L.J. 173 (2004) (arguing that the United States ultimately failed to provide a persuasive legal justification for the invasion of Iraq); Peter Raven-Hansen, *Executive Self-Controls: Madison's Other Check on National Security Initiatives by the Executive*, 23 ST. JOHN'S J.L. COMM. 987 (2009) (arguing that the legal memos written by John Yoo authorizing torture ignored applicable laws and regulations).

6. "The most politically potent revelation has been the report that in August 2001 the President's Daily Brief . . . —the super-sensitive digest of current intelligence presented to the President each morning—warned that Al-Qaeda might strike using hijacked aircraft." Richard K. Betts, *The New Politics of Intelligence: Will Reforms Work This Time?*, FOREIGN AFF., May–Jun. 2004, at 2, 4.

government in a superpower with such vast resources and human capital as the United States.<sup>7</sup>

In the search for answers to the questions that arose following some of the Bush Administration's controversial policies, a few scholars have suspected that the Administration may have been prone to a decision-making phenomenon known as "groupthink."<sup>8</sup> The term groupthink, as used in this Note and in academic and policy circles, refers to "a mode of thinking that people engage in when they are deeply involved in a cohesive in-group, when the members' strivings for unanimity override their motivation to realistically appraise alternative courses of action," and the in-group pressures result in "a deterioration of mental efficiency, reality testing, and moral judgment."<sup>9</sup> As might be expected, this failure to critically test, analyze, and evaluate ideas tends to result in poor decision making.<sup>10</sup>

This Note will both analyze the role of groupthink in the foreign policy decision-making processes within the Bush and Obama administrations, comparing and contrasting the two administrations' failures and corrections, as well as provide suggestions for preventing the onset of groupthink. Part II of this Note will provide a brief overview of groupthink theory. However, this Note relegates detailed discussion of some of the elements of Janis' groupthink theory to the footnotes because a detailed overview of groupthink theory is outside the scope of this Note. Rather, for a more in-depth discussion of groupthink, see Janis's seminal work on groupthink, *Groupthink: Psychological Studies of Policy Decisions and Fiascoes*. Part III will explore some of the constitutional and political idiosyncrasies of presidential power, especially those that concern

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7. See BUSH, *supra* note 1, at 192.

8. "[T]he reticence of the press and of Congress to ask difficult questions prior to the invasion of Iraq combined with the Bush administration's penchant for secrecy created an insular White House environment in which debate was stifled, 'groupthink' flourished, and questionable data on weapons of mass destruction were embraced while predictions of a peaceful, post-invasion Iraq similarly went unquestioned." Heidi Kitrosser, *Congressional Oversight of National Security Activities: Improving Information Funnels*, 29 CARDOZO L. REV. 1049, 1066–67 (2008).

9. IRVING L. JANIS, *GROUPTHINK: PSYCHOLOGICAL STUDIES OF POLICY DECISIONS AND FIASCOES* 9 (2d ed. 1983).

10. See generally Steven B. Redd, *The Influence of Advisers on Foreign Policy Decision Making: An Experimental Study*, 46 J. CONFLICT RESOL. 335 (2002) (showing that decision rules and processes employed by decision makers have a statistically significant impact on the ultimate choices being made).

the president's special constitutional role in foreign policy decision making, in order to highlight the particular vulnerabilities to groupthink of presidential policy-making circles. Parts IV and V will explore groupthink within the Bush and Obama administrations respectively, and will highlight areas in which the Obama Administration learned from and improved upon the decision-making practices of the Bush Administration. Finally, Part VI will synthesize the pitfalls of groupthink explored throughout this Note and will offer some possible remedies to help prevent, or at least minimize, recurrences of groupthink syndrome in presidential foreign policy decision-making circles.

## II. GROUPTHINK

Journalist William H. Whyte, Jr. first coined the term “groupthink” in a March 1952 *Fortune* magazine article.<sup>11</sup> However, it was Irving L. Janis in the early 1970s, while teaching psychology at Yale University, who fully developed the meaning by which it is best known today.<sup>12</sup> At the most basic level, groupthink refers to a mode of thinking in which group members' ideas and opinions begin to converge and they begin to ignore alternative courses of action as a result of striving for unanimity.<sup>13</sup> Groupthink occurs in group decision-making situations when group

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11. William Safire, *On Language: Groupthink*, N.Y. TIMES MAG., Aug. 8, 2004, <http://www.nytimes.com/2004/08/08/magazine/the-way-we-live-now-8-8-04-on-language-groupthink.html>.

12. JANIS, *supra* note 9, at xii. Although Janis himself acknowledged that his groupthink model is far from perfect, and over the past several decades numerous papers and studies have attempted to make modifications to his theory without consensus having been reached, Janis's is still the most widely publicized and cited groupthink model in texts on social psychology, business management, military, and politics. See, e.g., Robert S. Baron, *So Right It's Wrong: Groupthink and the Ubiquitous Nature of Polarized Group Decision-Making*, 37 ADV. EXP. SOC. PSYCHOL. 219 (2005); Won Woo Park, *A Comprehensive Empirical Investigation of the Relationships among Variables of the Groupthink Model*, 21 J. ORG. BEHAV. 873 (2000). Janis developed the theory of groupthink as he sought a response to a pressing question that began to confound him soon after the failed Bay of Pigs invasion: “How could bright, shrewd men like John F. Kennedy and his advisers be taken in by the CIA's stupid, patchwork plan?” JANIS, *supra* note 9, at vii. Janis was influenced by George Orwell's 1984 “newspeak” terminology—such as “doublethink” and “crimethink”—so he gave his term an Orwellian sound to confer on the concept of groupthink an invidious connotation. *Id.* at 9.

13. JANIS, *supra* note 9, at xii, 9. For a slightly different but more recent description of groupthink, especially as it applies to decision making in government, see generally PAUL 'T HART, *GROUPTHINK IN GOVERNMENT: A STUDY OF SMALL GROUPS AND POLICY FAILURE* (1990).

members “work closely together, share the same values, and above all face a crisis situation in which everyone is subjected to stresses that generate a strong need for affiliation.”<sup>14</sup> The theory of groupthink posits that “[t]he more amiability and esprit de corps among the members of a policy-making in-group, the greater is the danger that independent critical thinking will be replaced by groupthink, which is likely to result in irrational and dehumanizing actions directed against out-groups” and defective decision making overall.<sup>15</sup>

## A. CAUSES

### 1. Cohesiveness

Janis identified one major factor that increased the likelihood of groupthink occurring in a given decision-making group: group cohesiveness.<sup>16</sup> Group cohesiveness is “members’ positive valuation of the group and their motivation to continue to belong to it.”<sup>17</sup> While the existence of group cohesiveness by itself does not invariably lead to symptoms of groupthink, group cohesiveness is a necessary antecedent condition for the occurrence of groupthink.<sup>18</sup>

Janis explained that “[w]hen group cohesiveness is high, all the members express solidarity, mutual liking, and positive feelings about attending meetings and carrying out the routine tasks of the group.”<sup>19</sup> This can then negatively affect the efficiency of the group because the members may seek to “share[] basic assumptions that tend to preserve the group without regard for the work at hand.”<sup>20</sup> Further, “external stress”—such as combat or policymaking in times of national crisis—tends to increase the likelihood that a group will devolve into groupthink.<sup>21</sup> These findings

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14. JANIS, *supra* note 9, at 12–13.

15. *Id.*

16. *Id.* at 176. For other works discussing and applying groupthink in different areas, see also Melissa L. Breger, *Making Waves or Keeping the Calm?: Analyzing the Institutional Culture of Family Courts Through the Lens of Social Psychology Groupthink Theory*, 34 LAW & PSYCHOL. REV. 55 (2010); Andrew Howard, Note, *Groupthink and Corporate Governance Reform: Changing the Formal and Informal Decisionmaking Processes of Corporate Boards*, 20 S. CAL. INTERDIS. L.J. 425 (2011).

17. JANIS, *supra* note 9, at 4.

18. *Id.* at 245.

19. *Id.* at 4. See also Michael B. Dorff, *The Group Dynamics Theory of Executive Compensation*, 28 CARDOZO L. REV. 2025, 2035–37 (2007).

20. JANIS, *supra* note 9, at 4.

21. *Id.* at 4–5.

regarding increases of in-group cohesiveness as a result of external stress are particularly relevant to presidential foreign policy-making, especially as they concern the Bush and Obama administrations, and will be discussed in more detail in Parts IV and V of this Note.

Evidence of group cohesiveness comes in various forms, including: the ability of group members to work together with minimal explanations, little or no competition among group members, a reduced degree of fear of social punishment for holding antagonizing views, and a high degree of trust among group members.<sup>22</sup> Despite providing high levels of trust and camaraderie, greater cohesiveness increases the likelihood of groupthink because the more cohesive a group becomes, the more likely individual members are to censor themselves because of the motivation to preserve the unity of the group and to adhere to its norms.<sup>23</sup>

## 2. Structural Faults Within the Group or Organization

Janis also identified two other antecedent conditions, either of which must be present in order for groupthink symptoms to appear: structural faults within the group or organization, and a provocative situational context.<sup>24</sup> The existence of these characteristics markedly increases the probability of groupthink occurring, particularly if they are present prior to the group's deliberations, and even if the leader and the group members seek to avoid groupthink.<sup>25</sup>

One type of structural fault occurs when group members are insulated from other decision makers and experts.<sup>26</sup> A second type of structural fault is the lack of impartial leadership,<sup>27</sup> which occurs when the leader does not feel constrained by any organizational tradition to avoid pushing for his or

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22. *Id.* at 247.

23. *Id.* Janis further notes that there are three types of social rewards that strengthen the motivation for groupthink when there is group cohesiveness: friendship, prestige, and enhanced competence. *Id.* See also Dorff, *supra* note 19, at 2038; Howard, *supra* note 16, at 428. "Each member develops a strong motivation to preserve the rewards of group solidarity, an inner compulsion to avoid creating disunity, which inclines him or her to believe in the soundness of the proposals promoted by the leader or by a majority of the group's members." JANIS, *supra* note 9, at 248.

24. JANIS, *supra* note 9, at 244.

25. *Id.* at 245, 249.

26. *Id.* at 176, 245.

27. *Id.* See also Michael Barsa & David A. Dana, *Reconceptualizing NEPA to Avoid the Next Preventable Disaster*, 38 B.C. ENVTL. AFF. L. REV. 219, 229–30 (2011); Howard, *supra* note 16, at 429.

her own preferred policies and thus fails to encourage open, unbiased inquiry into the available alternatives.<sup>28</sup> As a result, group members feel uncomfortable voicing their true opinions, for fear of reprisals. A third type concerns a “lack of norms requiring methodical procedures for dealing with the decision-making tasks.”<sup>29</sup> A fourth type is a high degree of homogeneity among group members.<sup>30</sup> A lack of disparity in social background and ideology among the members of a cohesive group makes it easier for them to concur on whatever proposals the leader, or a majority of the members, puts forth to deal with the problems they are confronting.<sup>31</sup> A common ideology among a majority of group members also decreases the likelihood of different views being presented by group members holding such views in order to maintain a shared ideology.<sup>32</sup> Finally, a low level of heterogeneity among group members also tends to reduce the diversity and creativity of ideas that could be devised by group members in the first place.

### 3. Provocative Situational Context

Even if cohesiveness is present in a group and structural faults are not, groupthink may still occur if a provocative situational context—one that provokes stress among the group members—exists at the outset of deliberations.<sup>33</sup>

A common source of stress constituting a provocative situational context is an external threat.<sup>34</sup> Common types of external threats include defeat in a struggle with a rival group and being caught and punished for illegal actions.<sup>35</sup> Specifically, the most dangerous threats to a decision-making group arise from a combination of high levels of stress from external threats and low hopes of arriving at a better solution than the one

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28. JANIS, *supra* note 9, at 249.

29. *Id.* at 177.

30. *Id.* at 250. *See also* Barsa & Dana, *supra* note 27, at 226; Dorff, *supra* note 19, at 2038–39.

31. JANIS, *supra* note 9, at 250. *See also* Dorff, *supra* note 19, at 2038–39.

32. JANIS, *supra* note 9, at 250.

33. *Id.* at 250, 258. *See also* Breger, *supra* note 16, at 60; Howard, *supra* note 16, at 430. Moreover, the higher the stress produced in the context of the provocative situation, the higher the likelihood of groupthink symptoms becoming manifest. JANIS, *supra* note 9, at 258.

34. *See* JANIS, *supra* note 9, at 255.

35. *Id.*

the leader favors.<sup>36</sup> Furthermore, “[u]nder conditions of high external stress, the main incentive for the members to rely on the leader’s wisdom and to try to maintain group harmony is their motivation to relieve the anxieties generated by the salient external threats.”<sup>37</sup> Consequently, the group does not consider all possible courses of action, thus increasing the likelihood that it will make a less beneficial policy decision.<sup>38</sup>

Internal threats are a second source of stress.<sup>39</sup> There are three main types of frequent provocations that constitute an internal threat, all involving a temporary lowering of self-esteem.<sup>40</sup> “[R]ecent failures, such as an unanticipated poor outcome resulting from a prior decision for which the members of the policy-making group feel responsible,” account for one type of provocation.<sup>41</sup> Such failures make the members keenly aware of their personal inadequacies and, as a result, lower the collective self-esteem of the group.<sup>42</sup> A second type of internal threat is the presence of a complicated or difficult choice the group members believe is beyond their competence.<sup>43</sup> The challenge of making such a complex decision accordingly lowers each member’s sense of self-efficacy.<sup>44</sup> A third kind of internal threat is “a moral dilemma posed by the necessity [of making] a vital decision when the members of the policy-making group perceive a lack of any feasible alternatives except ones that violate their ethical standards of conduct.”<sup>45</sup> This occurs most frequently when the policy-makers have been “selected for their top-level positions not only for their competence and practical wisdom but also as standard bearers of humanitarian and ethical values.”<sup>46</sup>

All of the sources of internal stress mentioned above can be mitigated by the group arriving at unanimous decisions, which can bolster the individual group member’s self-esteem, but induces groupthink.<sup>47</sup>

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36. *Id.* at 258–59. *See also* Howard, *supra* note 16, at 430.

37. JANIS, *supra* note 9, at 255.

38. *See id.* at 250. *See also* Howard, *supra* note 16, at 430.

39. JANIS, *supra* note 9, at 255.

40. *Id.*

41. *Id.* *See also* Howard, *supra* note 16, at 430.

42. JANIS, *supra* note 9, at 255.

43. *Id.* *See also* Howard, *supra* note 16, at 430.

44. JANIS, *supra* note 9, at 255.

45. *Id.* *See also* Howard, *supra* note 16, at 430.

46. JANIS, *supra* note 9, at 255.

47. *Id.* at 256. Thus, groupthink “might be best understood as a mutual effort among the members of a group to maintain emotional equanimity in the face of external and



## B. SYMPTOMS

Janis identified eight main symptoms that, when observed in a policy-making group, support a diagnosis that groupthink has pervaded that group's decision-making processes:<sup>48</sup>

- (1) illusion of invulnerability<sup>49</sup>
- (2) unquestioned belief in the group's morality<sup>50</sup>
- (3) collective rationalization efforts<sup>51</sup>

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internal sources of stress arising when they share responsibility for making vital decisions that pose threats of failure, social disapproval, and self-disapproval." *Id.* See also Howard, *supra* note 16, at 430.

48. JANIS, *supra* note 9, at 174–75. See also Breger, *supra* note 16, at 61–62 (analyzing overarching symptoms of groupthink); *What Is Groupthink*, PSYCHOLOGISTS FOR SOCIAL RESPONSIBILITY, [http://www.psysr.org/about/pubs\\_resources/groupthink%20overview.htm](http://www.psysr.org/about/pubs_resources/groupthink%20overview.htm) (last visited Mar. 4, 2012) (providing an overview of groupthink and its symptoms, as well as a bibliography of works on groupthink).

49. This symptom involves “the illusion of being invulnerable to the main dangers that might arise from a risky course of action in which the group is strongly tempted to engage.” JANIS, *supra* note 9, at 35. When shared by most or all group members, it creates excessive optimism and encourages the group to take extreme risks. *Id.* at 36. See also Howard, *supra* note 16, at 431. This symptom appears when two themes begin to dominate policy-making discussions concerning a campaign directed against a rival group: first, group members feel that, because they are morally respectable and strong, they will necessarily succeed and second, group members consider their rivals to be the exact opposite—immoral and weak—and will therefore be defeated by the group. JANIS, *supra* note 9, at 36. A prime example of this symptom is the Kennedy Administration's gross overestimation of the probability of success of the Bay of Pigs invasion plan. *Id.* at 36–37.

50. This symptom causes group members to “use group concurrence as a major criterion to judge the morality as well as the efficacy of any policy under discussion.” JANIS, *supra* note 9, at 256–57. The group thus adopts a Machiavellian ideology in which its noble policy objectives justify virtually any means proposed to accomplish them. When most or all group members share the belief of their inherent morality, they become inclined to ignore the ethical and moral consequences of their decisions. *Id.* at 174. See also Howard, *supra* note 16, at 431.

51. A set of shared beliefs that rationalize group members' complacency about the soundness of their policy decisions is a third symptom of groupthink. JANIS, *supra* note 9, at 83. See also Marleen A. O'Connor, *The Enron Board: The Perils of Groupthink*, 71 U. CIN. L. REV. 1233, 1278 (2003). In particular, group members engage in “[c]ollective efforts to rationalize in order to discount warnings or other information that might lead [them] to reconsider their assumptions before they recommit themselves to their past policy decisions.” JANIS, *supra* note 9, at 174. See also Howard, *supra* note 16, at 431. This symptom is apparent in situations where large magnitudes of resources invested in a certain course of action have proven to be ineffective; yet a group nevertheless chooses to continue that course of action, and even increases the resources allocated for it. A prime example of

- (4) stereotypes of outsiders<sup>52</sup>
- (5) self-censorship<sup>53</sup>
- (6) illusion of unanimity<sup>54</sup>
- (7) direct pressure on dissenters<sup>55</sup>

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this symptom is the Johnson Administration's escalation of the Vietnam War following a failure to recognize that the United States was losing the war. JANIS, *supra* note 9, at 105.

52. A fourth symptom is the group's stereotyping of rivals both outside and within the group. JANIS, *supra* note 9, at 174, 229. *See also* Howard, *supra* note 16, at 432; O'Connor, *supra* note 51, at 1283. As for external rivals and enemies, the group develops prevailing stereotypes of enemy leaders as too evil to warrant genuine attempts to negotiate, or as too weak and stupid to counter whatever risky course of action the group decides upon to defeat its enemy's purposes. Howard, *supra* note 16, at 432. Regarding internal rivals, or dissenters, members of the majority tend to use of negative stereotypes to characterize those who oppose any of the group's goals. JANIS, *supra* note 9, at 229. *See also* O'Connor, *supra* note 51, at 1283–84. In the end, once a consensus has been established in respect to a policy by either the leader or a dominant majority, a governing theme emerges that silences dissenters for fear of being relegated to outcast status within the group: "You're either with us, or against us."

53. This symptom involves group members censoring their own deviations from the apparent group consensus, reflecting each member's inclination to minimize the importance of any doubts and counterarguments he or she might have. JANIS, *supra* note 9, at 247. *See also* O'Connor, *supra* note 51, at 1288. Furthermore, group members are reluctant to voice antagonizing opinions that could not only disrupt the group's unity, but also turn the group against the dissenter and make him or her a group outcast. JANIS, *supra* note 9, at 247. A shared desire to conform to the group consensus also inhibits individuals from ever carrying out a critical scrutiny in the first place, thus preventing them from realizing there might be grounds for strong objections. *Id.* The suppression of deviant thoughts operates such that even when doubts exist in a group member's mind, that member decides that his or her misgivings are not really relevant, and the benefit of any doubt should be given to the group consensus. *Id.*

54. This symptom involves group members sharing an illusion of unanimity concerning judgments conforming to the majority view. This illusion results from self-censorship of deviations, augmented by the false assumption that silence means consent. JANIS, *supra* note 9, at 175. *See also* O'Connor, *supra* note 51, at 1286–87. Group members, including the leader, play up the areas of convergence in their thinking at the expense of fully exploring divergent opinions, creating the illusion that members unanimously agree on a particular course of action. JANIS, *supra* note 9, at 37–38.

55. When a group member actually manages to express a strong dissenting argument against any of the group's stereotypes, illusions, or commitments, a seventh symptom of groupthink can emerge. JANIS, *supra* note 9, at 175. *See also* Howard, *supra* note 16, at 434. Other members can exert direct social pressures on the dissenter, making it clear that the dissent is contrary to what is expected of all loyal members. JANIS, *supra* note 9, at 175. *See also* Howard, *supra* note 16, at 434; O'Connor, *supra* note 51, at 1290–91. Often these pressures are implied in terms of disloyalty. JANIS, *supra* note 9, at 175. When the majority relies on familiar forms of social pressure directed against a member who questions the

(8) self-appointed “mindguards.”<sup>56</sup>

When a policy-making group displays most or all of the eight symptoms, groupthink results, causing the members to “perform their collective tasks ineffectively and [making them] likely to fail to attain their collective objectives.”<sup>57</sup> Even when some symptoms are absent, others may be so pronounced that all the adverse effects of groupthink may still occur.<sup>58</sup>

### C. EFFECTS

Groupthink may have some positive effects for a group, such as maintaining morale after a defeat; however, the negative effects generally outweigh the positive ones.<sup>59</sup> In most cases, when a policy-making group displays most or all of the eight symptoms of groupthink, the group performs ineffectively and is “likely to fail to attain [the] collective objectives.”<sup>60</sup> Janis theorized that “the more frequently a group displays the symptoms, the worse will be the quality of its decisions.”<sup>61</sup> In particular, the groupthink syndrome produces seven major negative effects on the decision-making process:

(1) incomplete survey of alternatives<sup>62</sup>

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group’s wisdom or morality, it is employing psychological defenses that help it keep anxiety, shame, and guilt to a minimum. *Id.* at 257. If subtle pressures fail against the dissenter, stronger efforts are made to limit the extent of the deviation, ultimately transforming him or her into a “domesticated” dissenter: the dissenter is allowed to dissent, but only on issues that do not threaten to shake the confidence of the majority in the reasonableness and righteousness of its collective judgments. *Id.*

56. “Mindguards” are “members who protect the group from adverse information that might shatter [group members’] shared complacency about the effectiveness and morality of their decisions.” JANIS, *supra* note 9, at 175. *See also* Howard, *supra* note 16, at 434. Methods of protection include: urging the dissident member to change his or her views or remain silent; preventing the leader and other members from learning of dissenting views; and controlling the flow of information into and out of the group, especially in respect to intelligence and other sensitive information that might disrupt consensus around a policy decision. JANIS, *supra* note 9, at 40–41. *See also* O’Connor, *supra* note 51, at 1292.

57. JANIS, *supra* note 9, at 175.

58. *Id.*

59. *Id.*

60. *Id.*

61. *Id.*

62. Groupthink may cause a group to conduct an incomplete survey of alternatives. *Id.* at 10. *See also* Melanie B. Leslie, *The Wisdom of Crowds? Groupthink and Nonprofit Governance*, 62 FLA. L. REV. 1179, 1195 (2010). Accordingly, this decreases the likelihood of embarking on an effective course of action and increases the likelihood that the chosen plan will yield fewer benefits than might otherwise have been possible.

- (2) incomplete survey of objectives<sup>63</sup>
- (3) failure to examine risks of preferred choice<sup>64</sup>
- (4) failure to reappraise initially rejected alternatives<sup>65</sup>
- (5) poor information search<sup>66</sup>
- (6) selective bias in processing information at hand<sup>67</sup>
- (7) failure to work out contingency plans.<sup>68</sup>

#### D. PREVENTION

As with most social problems, it is a complicated task to attempt to offer solutions to the groupthink syndrome. Following preventative steps will not always succeed and can sometimes be costly; nevertheless, the negative consequences of groupthink can be so costly to group decision

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63. A second negative effect involves the group not fully exploring what objectives it should be fulfilling and, thereby, not effectively assessing “the values implicated by the choice.” JANIS, *supra* note 9, at 10. Thus, a chosen course of action may be near-sighted and ineffective in the long-term.

64. A third negative effect involves the group failing to assess a chosen “course of action . . . from the standpoint of nonobvious risks and drawbacks that had not been considered when it was originally evaluated.” *Id.* See also Leslie, *supra* note 62, at 1195. Therefore, even though the chosen course of action might ultimately achieve a group’s main objectives, it may come at a much greater cost than initially planned.

65. A fourth detrimental effect involves members failing to reconsider previously rejected alternatives. Consequently, members “spend little or no time discussing whether they have overlooked nonobvious gains or whether there are ways to reduce seemingly prohibitive costs that had made the alternatives seem undesirable” at the initial evaluation. JANIS, *supra* note 9, at 10. See also Leslie, *supra* note 62, at 1195.

66. A fifth adverse effect is that group “members make little or no attempt to obtain information from experts who can supply sound estimates of losses and gains to be expected from alternative courses of action.” JANIS, *supra* note 9, at 10. See also Leslie, *supra* note 62, at 1195–96. As a result, courses of action may unknowingly omit data that is ultimately essential for success.

67. A sixth negative effect occurs when members engage in selective bias when “react[ing] to factual information and relevant judgments from experts, mass media, and outside critics.” JANIS, *supra* note 9, at 10. This selective bias causes group members to favor facts and opinions that support their chosen policies and ignore data that undermines their choices. *Id.* See also Leslie, *supra* note 62, at 1196.

68. A final negative effect is that “members spend little time deliberating about how the chosen policy might be hindered by bureaucratic inertia, sabotaged by political opponents, or temporarily derailed by the common accidents that, inevitably, often occur to the best of well-laid plans.” JANIS, *supra* note 9, at 10.

making that it is worth implementing certain procedures that attack the root causes of groupthink.<sup>69</sup>

Although groupthink cannot occur without group cohesiveness, this does not mean that group cohesiveness should be eliminated. Janis contends that non-cohesive groups “cause errors in decision-making that are just as serious as those arising in cohesive groups that indulge in groupthink.”<sup>70</sup> Sometimes, a cohesive group may actually be better, or even necessary, for certain decision-making situations. For example, a cohesive group may help if the task is to draw up a “comprehensive analysis and to find a solution that synthesizes cogent concepts, assumptions, and evidence relevant to a long-standing problem.”<sup>71</sup> Overall, it appears that a moderate level of group cohesiveness probably provides a safe balance.<sup>72</sup> A group with an appropriate level of cohesiveness could be achieved by promoting a moderate level of heterogeneity in group members’ social, ethnic, religious, economic, cultural, employment, and ideological backgrounds.<sup>73</sup> Group members should be able to both work well together and challenge each other in a respectful manner.

Provocative situational factors and structural faults within the group or organization, which are also antecedent conditions that may lead to groupthink, can be difficult to control. Therefore, Janis provides specific recommendations. First, the group’s leader should assign each group member to act as a “critical evaluator” and “encourag[e] the group to give high priority to airing objections and doubts.”<sup>74</sup> To strengthen this practice, at least one member should be assigned the role of devil’s advocate at every meeting and be charged with “evaluating policy alternatives.”<sup>75</sup> To prevent tokenism from infecting the devil’s advocate’s role, the role should be rotated and advocates should ask as many questions as possible.<sup>76</sup> Furthermore, the leader should accept criticism “to discourage the members

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69. *Id.* at 262. *See also* *What is Groupthink?*, *supra* note 48.

70. JANIS, *supra* note 9, at 169.

71. *Id.*

72. *See id.* at 250. *See also* O’Connor, *supra* note 51, at 1310.

73. *See* JANIS, *supra* note 9, at 250.

74. *Id.* *See also* Leslie, *supra* note 62, at 1262.

75. JANIS, *supra* note 9, at 267. *See also* Dorff, *supra* note 19, at 2076–75; O’Connor, *supra* note 51, at 1304.

76. JANIS, *supra* note 9, at 267–68. *See also* Dorff, *supra* note 19, at 2074–76; O’Connor, *supra* note 51, at 1304.

from soft-pedaling their disagreements.”<sup>77</sup> In addition, the leader should remain “impartial instead of stating preferences and expectations at the outset.”<sup>78</sup> Moreover, the group should establish several independent policy-planning groups to increase the chances of alternative courses of action being developed.<sup>79</sup> Once the groups are established, each group should “carry out its [own] deliberations under a different leader.”<sup>80</sup> Furthermore, the leader should divide the decision-making group into subgroups that then reconvene in the larger group to discuss the various proposed solutions.<sup>81</sup> In addition, Janis recommends that each group member seek input from “trusted associates” and report these outside views to the group.<sup>82</sup> Similarly, the group as one unit should consult outside experts who are “encouraged to challenge the views of the core members.”<sup>83</sup> In addition, if the task “involves relations with a rival nation or organization,” the group should engage in analysis of the rivals’ actions and intentions.<sup>84</sup> This practice also aids in the development of realistic contingency plans.<sup>85</sup> Finally, after coming to preliminary conclusions, the group should hold a “second chance” meeting to give members another chance to express and analyze doubts.<sup>86</sup>

### III. PRESIDENTIAL FOREIGN POLICY DECISION MAKING

Presidential foreign policy decision making involves two main actors: the president and the president’s advisers.<sup>87</sup> Together, they comprise the decision-making group—the insiders that will deliberate on foreign policy issues and select courses of action to be carried out. Nevertheless, outsiders

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77. JANIS, *supra* note 9, at 250. *See also* Howard, *supra* note 16, at 455.

78. JANIS, *supra* note 9, at 263. “This practice requires each leader to limit his or her briefings to unbiased statements about the scope of the problem and the limitations of available resources, without advocating specific proposals he or she would like to see adopted.” *Id.* *See also* Barsa & Dana, *supra* note 27, at 263 (providing a discussion of the leadership bias that probably contributed to a groupthink dynamic in decisions leading up to the oil spill of 2010 in the Gulf of Mexico).

79. JANIS, *supra* note 9, at 264.

80. *Id.*

81. *Id.* at 265–66. *See also* Dorff, *supra* note 19, at 2074.

82. JANIS, *supra* note 9, at 266.

83. *Id.* *See also* Leslie, *supra* note 62, at 1195–96.

84. JANIS, *supra* note 9, at 268.

85. *Id.* at 269.

86. *Id.* at 270–71.

87. *See, e.g.,* Louis Fisher, *A Constitutional Structure for Foreign Affairs*, 19 GA. ST. U.L. REV. 1059 (2003).

may often play a role, too. Congress, the public, and the press sometimes play roles, even though these roles may vary greatly due to a number of factors. This part will describe the context and group dynamics in which presidential foreign policy decision making takes place in order to better understand the vulnerabilities of presidential policymaking circles to groupthink.

#### A. PRESIDENTIAL POWER: THE PRESIDENT AS GROUP LEADER

In presidential foreign policy decision making, the president is the decision-making group's leader. The president alone is ultimately responsible for decisions made and makes final decisions on all major issues.<sup>88</sup> In addition to making final decisions, the president also chooses the rules of decision making. And ultimately, it is the sources of presidential power that guide the president when shaping all of these decisions. However, given the expansion of presidential power since the 1940s<sup>89</sup> and the pressures of decision making in wartime, presidential decision making is particularly susceptible to groupthink.

##### 1. The Expansion of Presidential Power

The original sources of presidential power are found in the Constitution.<sup>90</sup> When the framers drafted the Constitution in 1787, they placed the power to wage war in the hands of the legislature, rather than the executive, to avoid potential abuses of power by the president.<sup>91</sup> Despite the framers' intentions, the president's power with respect to national security and foreign affairs has expanded considerably. Today, "[p]articularly in the areas of national security and foreign affairs, the Presidency has become the far more powerful branch."<sup>92</sup> The changing nature of presidential power in the areas of foreign policy and national security, together with the roles of advisers and members of Congress, creates unique power dynamics that must be considered in order to

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88. *See, e.g., id.*

89. *Id.* at 1103.

90. U.S. CONST. art. II.

91. LOUIS FISHER, *PRESIDENTIAL WAR POWER* 1 (2d rev. ed. 2004). In seeking to avoid the pitfalls of a monarchy, the framers were acutely aware of how a nation's leader could abuse this power. *See generally id.*

92. William P. Marshall, *Eleven Reasons Why Presidential Power Inevitably Expands and Why It Matters*, 88 B.U. L. REV. 505, 507–08 (2008).

understand the groupthink syndrome in presidential foreign policy decision making.

The expansion of presidential power relative to the other branches of government is not a recent development.<sup>93</sup> The Supreme Court defined the limits of presidential power, by removing some of the ambiguities inherent in the text of the Constitution. In the seminal case of *Youngstown Sheet & Tube Co. v. Sawyer* from 1952, Justice Robert Jackson wrote in his concurrence:

[I]t is relevant to note the gap that exists between the President's paper powers and his real powers. The Constitution does not disclose the measure of the actual controls wielded by the modern presidential office. That instrument must be understood as an Eighteenth-Century sketch of a government hoped for, not as a blueprint of the Government that is. Vast accretions of federal power, eroded from that reserved by the States, have magnified the scope of presidential activity. Subtle shifts take place in the centers of real power that do not show on the face of the Constitution.<sup>94</sup>

Since *Youngstown*, the president's power has continued to expand. Expansion of the president's power is demonstrated by the executive branch's broadening interpretation of the Commander in Chief Clause. Scholars have offered different reasons why the framers desired to designate the president as Commander in Chief, one of the principal reasons offered being that such a designation "represented an important technique for preserving civilian supremacy over the military."<sup>95</sup> But "[s]cholars have long disagreed whether the term Commander in Chief merely confers a title or implies additional powers for the president."<sup>96</sup> Also in *Youngstown*, "Justice Robert Jackson underscored the elusive nature of [the Commander in Chief] power by remarking that the commander-in-chief clause implies 'something more than an empty title. But just what authority goes with the name has plagued presidential

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93. *Id.* at 508.

94. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 653 (1952) (Jackson, J., concurring).

95. FISHER, *supra* note 91, at 12. Another reason is offered by Alexander Hamilton, who supported making the president Commander in Chief because he believed that the direction of war "most peculiarly demands those qualities which distinguish the exercise of power by a single head." *Id.*

96. *Id.* at 13.



advisers who would not waive or narrow it by non-assertion yet cannot say where it begins or ends.”<sup>97</sup>

While most war power scholars have generally construed a narrower interpretation of the Commander in Chief Clause, pointing to history and the Constitution to argue that the clause originally intended the power to initiate war to vest exclusively in Congress, a few others have argued for a broader interpretation of the clause.<sup>98</sup> For example, John Yoo, a junior Office of Legal Counsel lawyer and War Council member in the Bush Administration, “wrote a major article in 1996 arguing that the framers constructed a constitutional system that ‘encourage[d] presidential initiative in war.’”<sup>99</sup> However, presidential war power scholar Louis Fisher contends that Yoo’s argument “contradicts not only statements at the Philadelphia convention and the state ratification debates[,] but also the text of the Constitution.”<sup>100</sup>

Presidents, however, have sought more than just an expansion of the power to initiate war. Over time, they have also sought to gradually increase their war powers, as they relate to both foreign and domestic affairs. The Court affirmed the president’s broad power to handle foreign affairs in the 1936 case *United States v. Curtiss-Wright Corp.* There, the Court upheld a statute that “allowed the President to impose an arms embargo whenever he found that it ‘may contribute to the reestablishment of peace’ between belligerents.”<sup>101</sup> Justice George Sutherland authored the much-criticized decision, in which he misinterpreted historical events and sidestepped the text of the Constitution itself in his reasoning that a “bright line existed between external and internal affairs, and the President’s latitude was inordinately broad whenever he acted in [the latter].”<sup>102</sup> Although later court decisions have cautioned against “placing undue reliance on ‘certain dicta’ in Sutherland’s opinion,”<sup>103</sup> “[t]he case is

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97. *Id.*

98. *Id.* at 14–15.

99. John C. Yoo, *The Continuation of Politics by Other Means: The Original Understanding of War Powers*, 84 CALIF. L. REV. 167, 174 (1996). See also FISHER, *supra* note 91, at 12.

100. FISHER, *supra* note 91, at 15. See also Louis Fisher, *Unchecked Presidential Wars*, 148 U. PA. L. REV. 1637, 1658–68 (2000) (providing a thorough analysis of John C. Yoo’s argument).

101. FISHER, *supra* note 91, at 69.

102. *Id.* at 70–71.

103. *Id.* at 72.

frequently cited to support not only broad delegations of legislative power to the President[,] but also the existence of independent, implied, and inherent powers for the President.”<sup>104</sup>

Presidents also have attempted, under the excuse of national security, to increase their powers during wartime. For example, during the Korean War, President Truman seized steel plants in an attempt to avoid the effects of a strike and to maintain continuous steel production.<sup>105</sup> But, the Supreme Court in *Youngstown* ultimately derailed this executive power grab.<sup>106</sup> Another example is President Bush’s creation of military tribunals for the purpose of trying suspects connected with the attacks of 9/11.<sup>107</sup> However, the Supreme Court again struck down the executive power grab.<sup>108</sup> In *Hamdan v. Rumsfeld*, the Court held that that president did not possess the power to create military tribunals and thus, could not create military tribunals without congressional authorization.<sup>109</sup>

Many factors have been proposed to explain why presidential power has been able to expand vis-à-vis Congress’s over time. Professor William Marshall argues that the expansion of presidential power has occurred almost inevitably as a result of “technological, social, and legal changes encompassing a variety of factors.”<sup>110</sup> He offers the following eleven factors:

- (i) the constitutional indeterminacy of presidential power;
- (ii) the precedential effects of executive branch action;
- (iii) the role of executive-branch lawyering;
- (iv) the expansion of the federal executive branch;
- (v) presidential control of the administrative state;
- (vi) presidential access to and control of information;
- (vii) the inter-relationship between the media and the Presidency;
- (viii) the role of the Presidency in popular culture;
- (ix) military and intelligence capabilities;
- (x) the need for the government to act

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104. *Id.* at 73.

105. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 582 (1952).

106. *See id.* at 587 (holding that the president’s power as derived from the Constitution did not grant him the authority to seize the steel plants).

107. *See generally* BUSH, *supra* note 1.

108. *Hamdan v. Rumsfeld*, 548 U.S. 557, 592–95, 634 (2006) (holding that the President did not have the power to unilaterally authorize military tribunals).

109. *Id.* at 595, 634 (finding that Congress did not provide the president with authorization to create military tribunals in the Uniform Code of Military Justice, the Authorization for Use of Military Force or the Detainee Treatment Act, thus the president did not have the power to create such tribunals). *See also* JACK GOLDSMITH, *THE TERROR PRESIDENCY: LAW AND JUDGMENT INSIDE THE BUSH ADMINISTRATION* 136 (2009).

110. Marshall, *supra* note 92, at 509.

quickly; and (xi) the rise of a strong two-party system in which party loyalty trumps institutional prerogative.<sup>111</sup>

The effects of some of these factors on the creation of some of the antecedent conditions of groupthink, such as group cohesiveness and structural organizational faults, will be assessed in subsequent parts of this Note.

## 2. Presidential Decision Making and Wartime

Another factor that has contributed to one of the antecedent conditions of groupthink is the concept of wartime. The notion of wartime has changed drastically since Congress's last declaration of war—the day after the Empire of Japan attacked Pearl Harbor more than seven decades ago.<sup>112</sup> The United States has nonetheless participated in several conflicts since then, and in many of these conflicts presidents were able to send troops into combat without seeking or obtaining express authorization from Congress.<sup>113</sup> This Note contends that the United States has participated in several wars since World War II (and is still engaged in Afghanistan)—even if Congress and the president insist on characterizing them as “conflicts”—so it is clear that the concept of wartime has morphed over time.

In her book about wartime in American history, Professor Mary Dudziak contends that the United States appears to operate under the theory that war justifies bending or even silencing the rule of law.<sup>114</sup> Dudziak explains that, when looking at the full timeline of American military conflicts, including the “small wars” and “forgotten wars,” there are few years of actual “peacetime.”<sup>115</sup> This observation “raises questions about whether American military engagement is really bound in time.”<sup>116</sup> “In our own time,” she explains, “war has been framed in a boundless way, reaching anywhere in the world that the specter of terrorism resides, and yet American leaders and political activists express frustration over its

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111. *Id.*

112. *E.g.*, George Friedman, *What Happened to U.S. Declaration of War?*, REAL CLEAR WORLD, March 29, 2011, [http://www.realclearworld.com/articles/2011/03/29/what\\_happened\\_to\\_the\\_american\\_declaration\\_of\\_war\\_99458.html](http://www.realclearworld.com/articles/2011/03/29/what_happened_to_the_american_declaration_of_war_99458.html).

113. *See* FISHER, *supra* note 91, at 145.

114. MARY L. DUDZIAK, *WAR TIME: A CRITICAL HISTORY* 48 (2011).

115. *Id.* at 50.

116. *Id.*

endlessness.”<sup>117</sup> The danger is expressed in the saying “*inter arma silent leges*” (“in time of war, law is silent”), attributed to Cicero and evoking the notion that law differs during wartime.<sup>118</sup> But if wartime today no longer has an end and rather just continues to exist indefinitely, its temporary nature—one of its essential features—has thus vanished. Once wartime’s temporary nature is removed from its characterization, the justifications for its different treatment of the law collapse with it. Thus, the ability of presidents to seize on notions of wartime to expand their power must be checked, if we are to avoid an Orwellian world in which wartime is the default state of affairs.

Because wartime creates a provocative situational context, the potential for its psychological influence to affect decision-making processes is enormous. And if wartime now extends much longer, or even indefinitely, then one of the antecedent conditions of groupthink will be present more often, or even constantly, thus greatly increasing the probability of groupthink. Further, having a group leader—the president—who has expanded foreign policy powers increases the danger that the president’s advisors will fall prey to groupthink in advising him or her on foreign policy matters, and the president will then have the power to implement the flawed conclusions of the group, without being checked by Congress or the public. At its most extreme, this risks undermining democracy.

#### B. THE ROLE OF ADVISERS: GROUP MEMBERS

Presidential advisers—including the Vice President, Cabinet members, White House staff, executive branch officials and experts, and even the First Lady—play a critical role as group members of formal and informal decision-making groups. These group members influence both the president’s choices for the structure of decision-making processes and his final decision on any particular issue.

Studies on presidential advisers’ roles show that “most advice to the president is not motivated by a pure concern for his position and responsibility.”<sup>119</sup> Indeed, “presidential advisers are often more interested in pleasing the President and ‘being on the winning side’ than in giving

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117. *Id.* at 49.

118. *Id.* at 48.

119. Redd, *supra* note 10, at 343.

sound policy advice.”<sup>120</sup> This is even more true with advisers who have lower status: “Advisers with higher status can guide, or even dictate, the decision-making process, whereas those with lower status may be marginalized or even shut out from important deliberations.”<sup>121</sup> Moreover, the advice the president is receiving may affect how he or she dictates the way the group will make decisions<sup>122</sup>—the group’s decision rules—which in turn, will affect the outcomes.<sup>123</sup>

#### IV. THE ROLE OF CONGRESS, THE PUBLIC, AND THE PRESS: OUTSIDERS

Although outsiders—Congress, the public, and the press—are not in the president’s core decision-making group, as presidential power has expanded over time, the need to maintain the system of checks and balances has increased the importance of the roles the outsiders should play. And as later parts of this Note will explore, their role is particularly important in helping reduce the likelihood of groupthink in presidential decision making.

Congress has made several attempts to reassert its role in influencing foreign policy and take back power lost to the executive branch. In 1973, Congress passed the War Powers Resolution, which required the president to obtain authorization from Congress if U.S. troops were sent into combat for more than 60 days (with a 30-day withdrawal period added).<sup>124</sup> Nevertheless, this attempt has been largely criticized as it has not only failed to check the president’s war power, but has actually expanded it by granting the president *carte blanche* authority to engage in military combat for up to 90 days.<sup>125</sup> As a result, “[p]residents from Ronald Reagan to Bill Clinton [have] made repeated use of military force without either seeking or obtaining authority from Congress.”<sup>126</sup> Other attempts at influencing presidential decision making in foreign policy have included meeting with the president and his or her advisers, conducting Congressional

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120. Yvette M. Barksdale, *The Presidency and Administrative Value Selection*, 42 AM. U. L. REV. 273, 329 n.334 (1993).

121. Redd, *supra* note 10, at 343.

122. *Id.* at 357.

123. *See generally id.* (showing that decision rules and processes employed by decision makers have a statistically significant impact on the ultimate choices being made).

124. War Powers Resolution, 50 U.S.C. §§ 1541–1548 (2006).

125. *See FISHER, supra* note 91, at 145.

126. *Id.*

investigative hearings, and obtaining testimony from executive branch officials.<sup>127</sup>

For the press and the public, meanwhile, technological and social advances have increased the ability of the public and the press to insert themselves into presidential decision making. Through interest groups, campaigns, polls, and social media outlets, the public and the press have often been successful in compelling the president and his or her advisers to consider their views.<sup>128</sup> The press has been influential in obtaining and providing data and intelligence to the president, the president's advisers, and the public.<sup>129</sup> The press's role as an investigator of the executive branch has also been significant in affecting foreign policy debate, especially regarding matters of secrecy. Examples include investigations and revelations of executive cover-ups during the Vietnam War, the Iran-Contra affair, and intelligence assessments used to justify the Iraq War.<sup>130</sup> The press can also influence public opinion through their reporting, and the public can in turn then exert pressure on the president and his or her advisers through opinion polls, especially before elections.

## V. GROUPTHINK IN THE BUSH ADMINISTRATION

A close analysis of anecdotal evidence, testimonials, government documents, and observers' accounts of the inner workings of President Bush's administration reveals mountains of evidence of groupthink symptoms and possible explanations of their causes. Because symptoms are usually more readily recognizable than specific causes for their manifestation, this part will begin by illustrating each groupthink symptom

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127. See, e.g., *id.* at 269, 280, 281.

128. See Sally Katzen, *Symposium: Festschrift in Honor of Paul R. Verkuil: Governing in the Information Age: Technology as a Tool of Democratic Engagement*, 32 *CARDOZO L. REV.* 2285, 2286 (2011); Lyriisa Lidsky, *Public Forum 2.0*, 91 *B.U. L. REV.* 1975, 2021–22 (2011).

129. Examples include press reports from war zones (e.g. Vietnam and Iraq), which have strongly influenced public opinion by shaping the public's views in favor or against the president's policies. Reports on casualty figures and other costs of war, for example, have often soured the public's views and strengthened efforts to bring a war to an end sooner than a presidential administration would like. See, e.g., Adam Nagourney & Megan Thee, *With Iraq Driving Election, Voters Want New Approach*, *N.Y. TIMES*, Nov. 2, 2006, at A1.

130. See, e.g., R.W. Apple, Jr., *25 Years Later: Lessons from the Pentagon Papers*, *N.Y. TIMES*, June 23, 1996, at 4; Bernard Weinraub, *Iran Payment Found Diverted to Contras; Reagan Security Adviser and Aide Are Out*, *N.Y. TIMES*, Nov. 25, 1986, at A1.

suffered by Bush's team of advisers as they made the decision to invade Iraq.

#### A. SYMPTOMS

##### 1. Illusion of Invulnerability

"I will fear no evil, for You are with me," prayed Bush after learning of the attacks on the Twin Towers on 9/11.<sup>131</sup> Prayer itself is no cause for concern, but this prayer reflects a divinely inspired illusion of invulnerability that pervaded Bush's decision-making team when deciding to invade Iraq.

On 9/11, the dominant theme that "freedom and justice will prevail"<sup>132</sup> was squarely established and became an almost permanent fixture in the deliberations of the Bush team on a range of national security issues, but most infamously regarding Saddam Hussein's Iraq. On September 15, 2001, Bush convened a meeting of his national security team, which included Vice President Dick Cheney, Secretary of Defense Donald Rumsfeld, Deputy Defense Secretary Paul Wolfowitz, National Security Advisor Condoleezza Rice, and Secretary of State Colin Powell, among others.<sup>133</sup> Wolfowitz, who at one point suggested the Bush team "consider confronting Iraq as well as the Taliban," voiced the invulnerability illusion most eloquently.<sup>134</sup> President Bush, influenced by his strong belief in the right of his team's actions, seemed to believe that they would prevail because, as the good guys in the conflict, they should prevail. In fact, President Bush believed that although "[t]his conflict was begun on the timing and terms of others[,] [i]t will end in a way, and at an hour, of our choosing,"<sup>135</sup> thereby evoking a sense that victory for the United States was inevitable. Moreover, even after the launch of the war, when U.S. troops faced increasing sectarian violence, casualties mounted, and no WMDs could be found anywhere, Bush remained blinded under the mantle of the illusion of invulnerability, minimizing the failure to find the WMDs, expressing no doubts about his decision to invade Iraq, and enunciating an activist role for the United States based on it being "*the* beacon for freedom

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131. BUSH, *supra* note 1, at 138.

132. *Id.*

133. *See, e.g., id.* at 189.

134. *Id.*

135. *Id.* at 146.

in the world.”<sup>136</sup> Together, these signs point to an excessive optimism felt by the President and administration officials and explain the extreme risks assumed by them regarding many of their foreign policy decisions—especially in respect to the decision to invade Iraq.

## 2. Unquestioned Belief in the Group’s Morality

“[O]ur responsibility to history is already clear: to answer these attacks and rid the world of evil.”<sup>137</sup> Bush’s own words reflected his and his team’s shared feelings of supreme morality. The “[f]reedom and justice will prevail” theme expressed the Bush decision-making group members’ unquestioned belief in their inherently moral mission.<sup>138</sup> This shared moral superiority also fueled most of the other groupthink symptoms, as the next sections will discuss below. As Bush’s prayer—discussed in Section 1 above—indicates, there was a shared sentiment among the group members that God was on their side, for God is inherently just, and the Bush team sought justice. And if God was on their side, surely they were the ones who were moral.

Bush also evoked the morality of past leaders, such as President Lincoln, to build the moral foundations for war: “I admired Lincoln’s moral clarity and resolve. The clash between freedom and tyranny, he said, was ‘an issue which can only be tried by war, and decided by victory.’”<sup>139</sup> Due to these shared lines of thinking, administration officials seem to have largely ignored many of the real ethical consequences of their most morally controversial foreign and national security policy decisions, such as the decisions to launch a preventive war against Iraq and to allow CIA investigators to torture terrorism suspects.

## 3. Collective Rationalization Efforts

On October 26, 2001, as Bush and the members of his National Security Council settled on the plan to launch the invasion of Afghanistan, he told them, “[w]e had the right strategy. Our plan was well conceived. Our military was capable. Our cause was just. We shouldn’t give in to second-guessing or let the press panic us. ‘We’re going to stay confident

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136. William Hamilton, *Bush Began to Plan War Three Months After 9/11*, WASH. POST, Apr. 17, 2004, at A01.

137. BUSH, *supra* note 1, at 146.

138. *Id.* at 138.

139. *Id.* at 140.



and patient, cool and steady' . . . ."<sup>140</sup> This dialogue exemplifies the ways in which Bush team members collectively rationalized their competency about the soundness of their policy decisions.

After the invasion of Afghanistan, the Bush Administration attempted to impose its collective rationalization of the justifications for the Iraq War on the American public. Having first considered military action against Iraq at the September 15, 2001, national security team meeting, Rumsfeld supported Wolfowitz by saying, "Dealing with Iraq [now] would show a major commitment to antiterrorism."<sup>141</sup> This position was justified most seriously by Powell's speech before the United Nations Security Council, in which he asserted "there can be no doubt that Saddam Hussein has biological weapons and the capability to rapidly produce more, many more."<sup>142</sup> Powell added, "Iraq today harbors a deadly terrorist network headed by Abu Musab al-Zarqawi, an associate and collaborator of Osama bin Laden and his Al Qaeda lieutenants."<sup>143</sup> Despite data from U.N. officials and several foreign nations casting doubt on U.S. intelligence reports,<sup>144</sup> the Bush Administration continued its collective rationalization efforts by discounting information that might have led its members to reconsider their assumptions before they recommitted themselves to their decision to launch the invasion of Iraq. In his memoir, Bush recognizes this symptom of groupthink by ultimately conceding that he and his team "should have pushed harder on the intelligence and revisited [their] assumptions."<sup>145</sup> Yet even after the invasion, when neither weapons of mass destruction ("WMDs") were discovered, nor links to Al-Qaeda corroborated, the Bush team continued to defend the war, changing its primary justification from a national security one to a humanitarian one. The new argument became, "Saddam was a terrible dictator, and the Iraqi people deserved democracy"—a rather drastic change, considering Bush's previous stance against engaging in nation building.<sup>146</sup>

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140. *Id.* at 199.

141. *Id.* at 189.

142. U.N. SCOR, 58th Sess., 4701st mtg. at 9, 14, U.N. Doc. S/PV.4701 (Feb. 5, 2003).

143. *Id.*

144. For example, one International Atomic Energy Agency report concluded that "documents which formed the basis for the reports of recent uranium transactions between Iraq and Niger are in fact not authentic." S. REP. NO. 109-331, at 53 (2006).

145. BUSH, *supra* note 1, at 242.

146. *Id.* at 205.

Other infamous examples of collective rationalization in the Bush Administration include authorizing the use of torture as an interrogation technique and establishing military tribunals to try terrorism suspects. In his presidential memoir Bush mentions that he looked to past wartime presidents such as Washington, Lincoln, and Roosevelt for guidance on how to bring captured enemy combatants to justice during wartime.<sup>147</sup> He points to their use of military commissions, thereby rationalizing a thought process that must have taken place along these lines: “These presidents were wartime presidents and authorized military commissions; I am a wartime president; therefore, I am justified in authorizing a military commission.” The Supreme Court, however, did not engage in such simple historical and legal analysis, ultimately ruling that the commissions were unconstitutional without the authorization of Congress.<sup>148</sup>

#### 4. Stereotypes of Rivals

“Either you are with us, or you are with the terrorists,” Bush warned governments around the world in a speech on September 20, 2001.<sup>149</sup> On the world stage, Bush attempted to neatly separate countries into two large groups, without regard for particular circumstances that might explain differences in foreign governments’ actions. In the end, the Bush team decided to place Iraq front-and-center in the War on Terror, alongside Afghanistan, even though an abyss separated Afghanistan’s links to terrorism from Iraq’s.

While Afghanistan’s links to terrorism were largely undisputed—as it was ruled by the Taliban members who actively supported Al-Qaeda<sup>150</sup>—Iraq’s links to terrorism were not well understood, and there was no international consensus at the time the launch of the invasion in 2003.<sup>151</sup> As it turns out, despite Saddam Hussein’s past use of WMDs during the Persian Gulf War and to commit brutal crimes against humanity, not only did Iraq no longer have WMDs by 2001, but “Hussein was distrustful of al-Qa’ida and viewed Islamic extremists as a threat to his regime, refusing all requests from al-Qa’ida to provide material or operational support.”<sup>152</sup>

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147. *Id.* at 167.

148. *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006).

149. BUSH, *supra* note 1, at 192.

150. *See, e.g., ZELIKOW ET AL., supra* note 2, at 64–70.

151. *See* S. REP. NO. 109-331, at 109 (2006).

152. *Id.* at 105.

The Bush Administration also evoked strength, justice, and patriotism to stereotype opponents of the war against Iraq as weak, unjust, and unpatriotic. The degree to which nationalist sentiment—repeatedly fueled by the Administration’s nationalist rhetoric—often won over reason following 9/11 is reflected in the name of the main counterterrorism act passed by Congress in the weeks after the attacks: the Patriot Act.<sup>153</sup> Bush even complains of the “unfair” lawsuits filed against the “patriotic” telecommunications companies that had participated in the government’s Terrorism Surveillance Program, in which warrantless surveillance of domestic communications had taken place.<sup>154</sup> “Companies that had agreed to do their patriotic duty to help the government keep America safe deserved to be saluted, not sued,” Bush protested.<sup>155</sup> However, in his memoir, Bush writes that he regretted the Act’s name: “[T]here was an implication that people who opposed the law were unpatriotic.”<sup>156</sup> This demonstrates that in retrospect, Bush perhaps regretted the stereotyping of rivals and the strength of groupthink at the time he was working with Congress to pass the Act.

#### 5. Self-Censorship

I . . . felt blindsided. [Rumsfeld] had told me the military was investigating reports of abuse at the [Abu Ghraib] prison, but I had no idea how graphic or grotesque the photos would be. The first time I saw them was the day they were aired by *60 Minutes* . . . .<sup>157</sup>

Bush complains several times in his memoir that he felt “blindsided” regarding certain issues or decisions that were made without his knowledge.<sup>158</sup> Such anecdotes serve as prime examples of situations in which the leader of a decision-making group is shielded from dissent or unwelcome information, often due to self-censorship on behalf of group decision makers who are unwilling to displease the leader or to disrupt the group’s perceived unity.

Bush provides insight into the disappointment he felt with some of the members of his team when differences existed: “I admired [Powell], but it sometimes seemed like the State Department he led wasn’t fully on board

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153. Pub. L. No. 107-56, 115 Stat. 272 (2001).

154. BUSH, *supra* note 1, at 177.

155. *Id.*

156. *Id.* at 162.

157. *Id.* at 89.

158. *E.g., id.*

with my philosophy and policies.”<sup>159</sup> Bush’s admission of disappointment with Powell should be no surprise, and the feeling was likely mutual, given that Powell left the Administration at the end of Bush’s first term.<sup>160</sup> Powell also later said he regretted his February 5, 2003, speech to the United Nations, which contained gross errors in pre-war intelligence on Iraq.<sup>161</sup> These accounts thus support the notion that at least some of Bush’s team members fell victim to the groupthink symptom of self-censorship.

#### 6. Illusion of Unanimity

“‘I just want to make sure that all of us did agree on this plan, right?’ I went around the table and asked every member of the team. They all agreed,” Bush writes in reference to the National Security Council meeting of October 26, 2001, in which he and his team members made the decision to launch the invasion of Afghanistan.<sup>162</sup> This anecdote serves as an example of the illusion of unanimity that seemed to exist in the Bush decision-making team. It shows the leader playing up the areas of convergence in the group members’ thinking, at the expense of fully exploring alternative opinions, thereby creating the illusion that the group members unanimously agree on the course of action initially preferred. It can hardly be argued that a leading question, such as the one that Bush posed to his team members, shows impartiality or seriously calls for critical evaluation from the members who were questioned. This illusion of unanimity also seemed to pervade the decision making that took place regarding the invasion of Iraq.<sup>163</sup>

#### 7. Direct Pressure on Dissenters

“An important part of my job was to create a culture that encouraged teamwork and fostered loyalty—not to me, but to the country and our

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159. *Id.* at 90.

160. Elisabeth Bumiller & Richard W. Stevenson, *Powell Resigns From Cabinet, Rice is Said to be His Successor*, N.Y. TIMES, Nov. 16, 2004, at A1.

161. *Powell Regrets UN Speech on Iraq WMDs*, ABC NEWS, Sep. 9, 2005, <http://www.abc.net.au/news/2005-09-09/powell-regrets-un-speech-on-iraq-wmds/2099674>.

162. BUSH, *supra* note 1, at 199.

163. Although there was initially a bitter power struggle between Powell and Cheney regarding the plan to invade Iraq, Cheney’s camp—which seemed to suffer from a “fever” obsessed on removing Saddam Hussein from power—eventually won, and Powell—who initially opposed going to war against Iraq—agreed to make the case against Hussein in the United Nations in February 2003, thereby creating an illusion of unanimous agreement on launching the Iraq War. Hamilton, *supra* note 136.

ideals.”<sup>164</sup> Although Bush claims that he did not seek loyalty, the Bush team still showed signs of the groupthink symptom of direct pressure on dissenters. Often, this direct pressure is implied in terms of loyalty.<sup>165</sup> Throughout his memoir, Bush mentions loyalty several times when describing individual administration members.<sup>166</sup> He specifically commends Karl Rove and Andy Card for their loyalty, and implies the same for Vice President Cheney, praising him for “accept[ing] any assignment [he] asked [of him],” as well as for being “a good friend.”<sup>167</sup>

The presence of domesticated dissenters is another feature of the groupthink symptom of direct pressures on dissenters. It is uncertain whether Powell began his time in the Bush Administration as a critical evaluator but, even if that was the case, he became a domesticated dissenter by the time he gave his impassioned speech regarding Iraq’s WMDs before the United Nations on February 5, 2003.<sup>168</sup> Dissatisfaction with that role would also explain his departure at the end of Bush’s first term.

Finally, accounts have been written regarding the direct pressures that some Bush team members exerted on others when disagreement, or the threat of disagreement, materialized<sup>169</sup>—perhaps most frequent regarding Vice President Cheney.<sup>170</sup> One account claims that Cheney exerted most of his influence out of public view and that his office “played a central role in shattering limits on coercion” of prisoners in U.S. custody.<sup>171</sup>

#### 8. Self-Appointed “Mindguards”

“I had chosen [Cheney] to help me do the job. That was exactly what he had done.”<sup>172</sup> This statement captures the essence of the widespread theory that Vice President Cheney was “the true power behind the throne.”<sup>173</sup> A cursory reading of Bush’s memoir will not reveal much

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164. BUSH, *supra* note 1, at 66.

165. See Fisher, *supra* note 87.

166. See, e.g., BUSH, *supra* note 1, at 95.

167. *Id.* at 82, 87, 95–96.

168. See U.N. SCOR, 58th Sess., 4701st mtg. at 9, 14, U.N. Doc. S/PV.4701 (Feb. 5, 2003).

169. See, e.g., BARTON GELLMAN, ANGLER: THE CHENEY VICE PRESIDENCY (2008).

170. See *id.*

171. *Id.*

172. BUSH, *supra* note 1, at 87.

173. Dan Froomkin, *Cheney Lurks Just Beneath Bush’s Words*, THE HUFFINGTON POST, Nov. 9, 2010, [http://www.huffingtonpost.com/2010/11/09/cheney-lurks-just-beneath-bush-words\\_n\\_781270.html](http://www.huffingtonpost.com/2010/11/09/cheney-lurks-just-beneath-bush-words_n_781270.html).

evidence to support that theory, but “Cheney is everywhere in the book, if you know how to look.”<sup>174</sup> As noted above, Bush mentions several times in his memoir that he felt “blindsided.”<sup>175</sup> Three areas in which he felt blindsided were the controversies surrounding Abu Ghraib,<sup>176</sup> the warrantless surveillance program,<sup>177</sup> and the financial crisis.<sup>178</sup> Not coincidentally, “these three areas were among the many that Bush essentially arrogated to Cheney.”<sup>179</sup>

Taken together, the evidence strongly supports the idea that, at the very least, Vice President Cheney acted as a self-appointed mindguard, and at most was the official who wielded the most power in the Administration, having the greatest access to and influence on the President.<sup>180</sup> “From behind the scenes, Cheney was guardian of conservative orthodoxy on budget and tax matters” and played a “hidden and little-understood role in crafting policies on national security.”<sup>181</sup> One account describes Vice President Cheney’s somewhat pathological tendencies, detailing an instance in which confidential memos between National Security Council Director Rice and her top advisers were being intercepted by Vice President Cheney without their knowledge.<sup>182</sup> His seeming omnipresence aided him in his role as mindguard by allowing him to control the flow of information to and from the President, thereby explaining Bush’s frustration with being blindsided on several occasions.

## B. CAUSES

### 1. Cohesiveness

“Over eight years as president, my personnel decisions raised some of the most complex and sensitive questions that reached the Oval Office,”

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174. *Id.*

175. *E.g.*, BUSH, *supra* note 1, at 89, 470.

176. *Id.* at 89.

177. *Id.* at 176. *The Washington Post* notes that “three months into a legal rebellion at the Justice Department over warrantless domestic surveillance, President Bush was nowhere in the picture.” Angler: *The Cheney Vice Presidency*, WASH. POST (Sept. 2008), <http://blog.washingtonpost.com/cheney>. See also GELLMAN, *supra* note 169, at 299–300.

178. GELLMAN, *supra* note 169, at 470.

179. Froomkin, *supra* note 173.

180. See, *e.g.*, *id.*; GELLMAN, *supra* note 169.

181. Angler: *The Cheney Vice Presidency*, *supra* note 177.

182. Kevin Drum, *The Panopticon White House*, WASHINGTON MONTHLY (Jun. 24, 2007, 1:46 PM), [http://www.washingtonmonthly.com/archives/individual/2007\\_06/011547.php](http://www.washingtonmonthly.com/archives/individual/2007_06/011547.php).

one of which concerned “how to assemble a cohesive team.”<sup>183</sup> Some of the symptoms shown by the Bush team provide strong evidence that high cohesiveness was characteristic of the team. As mentioned above, loyalty was one of the most valued attributes in the Bush Administration, which reflects a tendency for members to place high value on social rewards like friendship and prestige that contribute toward concurrence-seeking.

Another sign of high cohesiveness includes bonds of friendship and trust shared among different high-level officials. “After six years together in the White House and on the campaign, I had grown very close to [Rice]. She could read my mind and my moods. We shared a vision of the world,” Bush admits.<sup>184</sup> As for Cheney, he writes, “Most importantly, I trusted him.”<sup>185</sup> He further adds, “I valued his steadiness. I enjoyed being around him. And he had become a good friend.”<sup>186</sup> Regarding the Administration as a whole, he says, “We had low turnover, little infighting, and close cooperation through some of the most challenging times in our nation’s history.”<sup>187</sup>

Group cohesiveness also increases noticeably whenever a collection of individuals faces a common source of external stress. The attacks of 9/11 provided such a source, helping to strengthen already strong bonds among the members of Bush’s team as they supported each other through a tough time in the nation’s history.

## 2. Structural Faults Within the Group or Organization

“[Rumsfeld] had valuable experience and shared my view of the war on terror as a long-term ideological struggle.”<sup>188</sup> “[Rice] could read my mind and my moods. We shared a vision of the world . . . .”<sup>189</sup> “I wanted people who agreed on the direction of the administration . . . .”<sup>190</sup> These statements by Bush reflect the primary structural organizational fault in his decision-making group—homogeneity. Specifically, Bush’s team suffered from an extremely high degree of philosophical and attitudinal homogeneity, which was reflected in its members’ shared ideology:

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183. BUSH, *supra* note 1, at 66.

184. *Id.* at 90.

185. *Id.* at 87.

186. *Id.*

187. *Id.* at 66.

188. *Id.* at 92.

189. BUSH, *supra* note 1, at 90.

190. *Id.* at 66.

[K]ey members of the Bush Administration (among them [Cheney], [Rumsfeld], and [Wolfowitz]) long shared a philosophy regarding the strategic wisdom of using unilateral, pre-emptive military interventions (or their threat) as a key aspect of U.S. foreign policy. This view (a.k.a. the Bush Doctrine) came to be normative within the Bush White House following the attacks of 9/11 and subsequently precipitated several dramatic administrative decisions, including the sequential invasions of both Afghanistan and Iraq, despite protestations from many U.S. allies, especially in respect to the latter.<sup>191</sup>

Another severe structural fault present in the Bush Administration was insulation. The principal policy makers, especially the President, were largely insulated from outside experts who would have been able to provide alternative viewpoints and engage in critical evaluation of courses of action that were discussed. Moreover, a strong ideology shared by group members prevented discussion of alternatives that did not fit that ideology. Decisions were made with little regard to the end result, and relevant questions were never asked. It was decided early on that Iraq definitely had WMDs, and anyone who attempted to seriously question that assumption was deemed to be blind to “facts.”

A lack of impartial leadership was also a serious structural fault from the very beginning. Bush cared less about seriously encouraging open, unbiased debate of all possible alternatives than about making sure that the chosen policy was one with which he would agree initially. But, in fact, he did not have to worry much about ensuring that he would favor the policy chosen by his team. His colleagues and advisers knew his policy preferences from the outset, and they would often engage in the common and deceptive practice of offering the illusion of choice when, in fact, there was no real choice offered at all.<sup>192</sup> One such practice is the use of the classic “Henry Kissinger model,” in which three options are presented to the president, two of which are ridiculous, thereby ensuring that the president will select the one in the middle.<sup>193</sup> In this manner, the president is deceived into thinking that three (or more) different policy choices were thoroughly explored, when in fact there was little or no deliberation, but rather a presentation of a policy choice that had been favored from the outset.<sup>194</sup>

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191. See Baron, *supra* note 12, at 32.

192. See BOB WOODWARD, *OBAMA’S WARS* 103–04 (2010).

193. *Id.* at 103.

194. *Id.* at 104.



### 3. Provocative Situational Context

Following the attacks of 9/11, Bush says he vowed: “I would pour my heart and soul into protecting the country, whatever it took.”<sup>195</sup> Strong desires to adopt a “do whatever it takes” approach commonly arise in response to an external threat, thereby creating a “provocative situational context”—the antecedent condition for groupthink. It is clear and understandable that the attacks of 9/11 produced high stress among officials in the Bush Administration. And, the threat of future attacks constituted an ongoing external threat that continued to exert stress and anxiety on administration officials, who feared another attack in the weeks after 9/11.<sup>196</sup> Moreover, the Administration’s own structural faults, which affected the quality and flow of intelligence information, contributed to the illusion that Iraq posed a greater threat than it actually did.

Internal threats surfaced that produced a provocative situational context and, thus, increased the likelihood of groupthink occurring. From anecdotal evidence, it seems that officials in the Bush Administration, at least on 9/11 and the days that followed, felt stressed and humiliated by the nation’s intelligence and defense failures.<sup>197</sup> The Administration had allowed national security to be breached and on their watch the first attack by foreigners on U.S. soil since World War II occurred.<sup>198</sup> The Administration desperately sought both an explanation for the attacks and a strategy to prevent future attacks.<sup>199</sup> At the same time, it seems that further internal stresses arose as a result of the Administration’s moral dilemma in its attempt to balance its national security interest and civil rights and liberty interests.<sup>200</sup>

Combined with the other external and internal threats, a marked lowering of self-esteem must have taken place. As a result, concurrence-seeking would become more likely as a way for members to bolster the group’s self-esteem when forced to share responsibility for making vital decisions that posed threats of failure, social disapproval, and self-disapproval.<sup>201</sup>

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195. BUSH, *supra* note 1, at 151.

196. *Id.* at 154.

197. *Id.* at 135, 156.

198. *Id.* at 137.

199. *Id.* at 154.

200. *See id.*

201. JANIS, *supra* note 9, at 256.

## C. EFFECTS OF GROUPTHINK

## 1. Incomplete Survey of Alternatives

As a result of groupthink, the Bush Administration failed to truly consider all alternative courses of action in making its decision to invade Iraq. Although it is not publicly known exactly when Bush's inside circle made the decision to invade Iraq, some evidence indicates that they began to seriously contemplate an invasion of Iraq as early as the National Security Council meeting on September 15, 2001.<sup>202</sup> As a result, alternative courses of action—including escalated pursuits of diplomacy, intelligence collection, or other coercive measures—seem to never have been earnestly entertained.

## 2. Incomplete Survey of Objectives

The Bush Administration also failed to undertake a complete survey of its objectives. The objective of disarming Saddam Hussein by way of an invasion was, therefore, near-sighted and ineffective in the long-term. If the objective had simply been to topple Saddam Hussein's regime, the Bush team could have rightly proclaimed, "mission accomplished." But, other objectives, such as maintaining the United States' international credibility, keeping strong relations with allies, adhering to international norms, improving the war effort in Afghanistan, maintaining the U.N.'s legitimacy, controlling the human and financial costs of war, and avoiding providing fuel to fundamentalists and destabilizing the Middle East, were not fully taken into account.<sup>203</sup>

## 3. Failure to Examine the Risks of the Preferred Choice

The Bush team likewise failed to fully examine many of the risks of invading Iraq. Thus, the true costs of the war—financial, humanitarian, and political costs—were grossly underestimated.<sup>204</sup> This failure, in turn,

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202. See BUSH, *supra* note 1, at 191. See also Hamilton, *supra* note 136 (reviewing Bob Woodward's book alleging that Bush's team began to plan the Iraq War in December 2001).

203. See generally BUSH, *supra* note 1 (exploring Bush's time in office post-9/11 from his perspective).

204. See *id.* at 258. See also *infra* note 207. "Not only in human lives, but in monetary terms as well, the costs of the U.S.-led invasion of Iraq far exceed[ed] the administration's initial projection of a \$50 billion tab." Keith Garvin, *The One Certainty About Iraq: Spiraling Costs for Americans*, ABC NEWS, Apr. 20, 2006, <http://abcnews.go.com/International/story?id=1866779&page=1#.T5ClmY4WW9I>.

contributed to the team's lack of a realistic contingency plan for after the invasion.<sup>205</sup>

#### 4. Failure to Reappraise Initially Rejected Alternatives

Just as it initially failed to survey alternative courses of action, the Bush Administration subsequently failed to comprehensively reappraise alternative courses of action.<sup>206</sup> Diplomacy, even coercive diplomacy, was never given a real chance. The Administration also overlooked the option to give intelligence agencies additional time to gather data that would eliminate doubts, holes, and contradictions in available reports.

#### 5. Poor Information Search

One result of early concurrence was that the Bush Administration lacked the interest in truly becoming better informed regarding Iraq's purported WMDs and links to Al-Qaeda. Instead, Administration officials, largely influenced by mindguards such as Cheney,<sup>207</sup> seem only to have sought out information that supported the initial preference for an invasion of Iraq.<sup>208</sup> Consequently, to a great extent, outside experts were not consulted.

#### 6. Selective Bias in Processing Information at Hand

Bush Administration officials certainly displayed selective bias in the way they reacted to factual information and relevant judgments from the outside experts, critics, and mass media members who attempted to caution the Administration against advocating war with Iraq on shaky and uncorroborated intelligence assessments.<sup>209</sup> As a result, Administration officials, whether consciously or not, engaged in cherry picking of data to support the initial assessment that Iraq had WMDs and links to Al-Qaeda.<sup>210</sup>

#### 7. Failure to Work Out Contingency Plans

“With diplomacy faltering, our military planning sessions had increasingly focused on what would happen after the removal of Saddam.

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205. BUSH, *supra* note 1, at 258.

206. *Id.* at 248, 258.

207. See Hamilton, *supra* note 136 (describing Cheney as a “powerful, steamrolling force” who led the group of administration officials advocating war).

208. See *supra* Part IV.A.7–8.

209. See S. REP. NO. 109–331 S. REP. NO. 109–331, at 53 (2006).

210. *Id.*

In later years, some critics would charge that we failed to prepare for the postwar period. That sure isn't how I remember it,"<sup>211</sup> President Bush recounted. He notes, however, that "there was one important contingency for which we had not adequately prepared. In the weeks after liberation, Baghdad descended into a state of lawlessness. I was appalled to see looters carrying precious artifacts out of Iraq's national museum and to read reports of kidnapping, murder, and rape."<sup>212</sup>

The lack of a comprehensive range of contingency plans was one of the greatest adverse effects of the Bush Administration's groupthink. The failure described by Bush at the outset, however, was not actually a failure to plan for a contingency, this was a failure to plan for a near certainty. While Bush lays part of the blame on Hussein's release of prisoners before the war began,<sup>213</sup> the fact that the United States appeared blindsided by the results of the Iraq and Afghanistan invasions suggests that the Administration failed to effectively consider some of the most obvious types of collateral damage that occur in war—the collapse of the government, the police force, the infrastructure, and the economy.<sup>214</sup>

## VI. GROUPTHINK IN THE OBAMA ADMINISTRATION

When Barack Obama became president, he inherited President Bush's main foreign policy challenges: the wars in Iraq and Afghanistan. Obama had vigorously opposed the Iraq War throughout his presidential campaign, promising to remove all combat troops from Iraq within sixteen months of becoming president.<sup>215</sup> Nevertheless, as one of his last major acts in office, Bush had negotiated and signed the United States-Iraq Status of Forces Agreement<sup>216</sup> in November of 2008, in which the United States agreed that

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211. BUSH, *supra* note 1, at 248.

212. *Id.* at 258.

213. *Id.*

214. Memorandum from Commander of the U.S. Cent. Command Tommy R. Franks for Sec'y of Def. Donald Rumsfeld (Declassified, Apr. 17, 2003) (on file with The Rumsfeld Papers), available at <http://library.rumsfeld.com/doclib/sp/323/From%20CENTCOM%20re%20Operation%20Iraqi%20Freedom%2004-16-2003.pdf#search=%22Operation%20Iraqi%20Freedom%22>. See generally Donald Rumsfeld, *Library*, THE RUMSFELD PAPERS, [www.rumsfeld.com/library/](http://www.rumsfeld.com/library/) (last visited Feb. 6, 2012) (documents illustrating many of the symptoms and effects of groupthink described in Part IV).

215. WOODWARD, *supra* note 192, at 76.

216. The Withdrawal of United States Forces from Iraq and the Organization of Their Activities during Their Temporary Presence in Iraq, U.S.-Iraq, Nov. 17, 2008, 2008 U.S.T. Lexis 115.

U.S. combat forces would withdraw from Iraqi cities by June 30, 2009, and all U.S. forces would be completely out of Iraq by December 31, 2011.<sup>217</sup> As a result, Obama was constrained and could not withdraw forces as quickly as he would have liked. The day after his inauguration, Obama commissioned a review of Iraq strategy, and on February 27, 2009, Obama announced an exit strategy for Iraq, in which he indicated that U.S. combat troops would be withdrawn by August 31, 2010, but that as many as 50,000 Marines and soldiers would remain until the end of 2011.<sup>218</sup>

With an exit strategy for Iraq under way, Obama moved on to the “forgotten” war—Afghanistan. Bush had ordered a strategic review of the War in Afghanistan in the fall of 2008, which was conducted by Army Lieutenant General Douglas Lute, also known as the “war czar.”<sup>219</sup> Lute ultimately was kept on by Obama as Senior Adviser and Coordinator for Afghanistan-Pakistan.<sup>220</sup> Lute’s review provided a stark contrast between the two wars. In Iraq, the United States had 150,000 troops, a 1,000-person embassy that coordinated with the military, a foreign-aid program of several billion dollars a year, and strong cooperation from Prime Minister Nouri al-Maliki and the Iraqi security forces.<sup>221</sup> In Afghanistan, by contrast, there were about 38,000 U.S. troops and 29,000 NATO and other allied troops, the U.S. Embassy was not coordinating well with the military, economic development was minimal, President Hamid Karzai was not fully cooperating with the United States, and the Afghan security force remained “woefully inadequate.”<sup>222</sup> In sum, the effort in Afghanistan was barely enough to keep from losing, but that was all.<sup>223</sup>

In this way, the War in Afghanistan became Obama’s most pressing foreign policy concern. A review of the decision making that took place in Obama’s first year in office regarding a military strategy for Afghanistan

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217. *Agreement on the Withdrawal of United States Forces from Iraq and the Organization of Their Activities During Their Temporary Presence in Iraq*, N.Y. TIMES, [http://graphics8.nytimes.com/packages/pdf/world/20081119\\_SOFA\\_FINAL\\_AGREED\\_TEXT.pdf](http://graphics8.nytimes.com/packages/pdf/world/20081119_SOFA_FINAL_AGREED_TEXT.pdf) (last updated Oct. 21, 2011).

218. Steven Thomma, *Obama to Extend Iraq Withdrawal Timetable; 50,000 Troops to Stay*, MCCLATCHY NEWSPAPERS, Feb. 27, 2009, <http://www.mcclatchydc.com/2009/02/27/62930/obama-to-extend-iraq-withdrawal.html>.

219. See Helene Cooper, *War Czar for Bush to Keep His Job*, N.Y. TIMES, Jan. 13, 2009.

220. See WOODWARD, *supra* note 192, at 40–41.

221. *Id.* at 41–42.

222. *Id.*

223. *Id.* at 43.

serves as a strong counterpoint to the Bush Administration's decision making regarding Iraq between 9/11 and the launch of the invasion. The effectiveness of the actual decision Obama ultimately made—sending 30,000 additional troops to Afghanistan, with a withdrawal beginning in July 2011<sup>224</sup>—is outside the scope of this Note; rather, the process used to arrive at that decision informs the present inquiry.

#### A. ANTI-GROUPTHINK DECISION-MAKING PRACTICES

The Obama team adopted several decision-making practices that helped counter the groupthink that had plagued the Bush team. These practices produced a moderate level of cohesiveness, greatly limited structural organizational faults, and reduced threats that could give rise to a provocative situational context.

##### 1. Building Moderate Cohesiveness

“Hillary and I were friends before this started . . . We had this very vituperative campaign, but, you know, she is smart and we ought to be able to do something with her.”<sup>225</sup> After his election, Obama sought out people to fill the Cabinet and White House staff positions based on each member's experience and the different contributions they could bring to the table. While political ideology was one factor to consider, it was not elevated above other qualities. Above all, Obama seemed to want to succeed by considering all possible options, and the only way to do that was by including people who thought differently from him and who would challenge his thinking.<sup>226</sup>

Obama thus set about to build a team that would work well together, but whose members would also engage in critical thinking and evaluate all possible options when making decisions. Obama sought to strike this balance by including both friends and political allies, such as David Axelrod and Rahm Emanuel, and also outsiders and even former rivals.<sup>227</sup> For example, in a somewhat controversial move, Obama chose to keep Bush's Secretary of Defense, Robert Gates, citing the importance of continuity and expertise.<sup>228</sup> Obama also wished to heal the wounds inflicted

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224. See, e.g., *id.* at 385–90.

225. *Id.* at 27.

226. See WOODWARD, *supra* note 192, at 19, 27–29, 38, 56.

227. See *id.*

228. See *id.* at 19.

during a bitter nomination campaign and appoint a strong Secretary of State, so he offered Hillary Clinton the post.<sup>229</sup> For the position of CIA Director, Obama chose Leon Panetta, who, as an outsider, would help improve the Agency's image, which had been severely tarnished due to controversial pre-Iraq War intelligence, interrogation techniques, and its domestic spying program.<sup>230</sup> Thus, the manner in which Obama built his decision-making group laid the foundation for avoiding groupthink.

## 2. Roles of Critical Evaluator Assigned to Each Member

Joe, I want you to say exactly what you think. And I want you to ask the toughest questions you can think of. And the reason is . . . because I think the American people . . . and our troops are best served by a vigorous debate on these kinds of life-or-death issues.<sup>231</sup>

Obama used these words to encourage Vice President Joe Biden to be an aggressive contrarian in national security team meetings regarding strategy for Afghanistan.<sup>232</sup> And, at a September 13, 2009, national security meeting, Obama told his team "We need to come to this with a spirit of challenging our assumptions . . . . Don't bite your tongue. Everybody needs to say what's on their mind."<sup>233</sup> In statements such as these, Obama sought to ensure that each member of his team contributed independently and critically to any decision making.

## 3. Leader's Impartiality at the Outset

When assessing the Afghanistan War, Obama told his national security team, "We have no good options here,"<sup>234</sup> therefore establishing that he would not accept only a single solution from only an individual high-ranking member.<sup>235</sup> Obama preferred to have a full range of options comprehensively discussed in order for him to remain impartial.<sup>236</sup> In making decisions, Obama critically questioned all proposals and did not state his preference for a specific policy until the group had fully explored all options.<sup>237</sup>

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229. *See id.* at 27–29.

230. *See id.* at 56, 58.

231. *Id.* at 160.

232. WOODWARD, *supra* note 192, at 160.

233. *Id.* at 161–62.

234. *Id.* at 161.

235. *Id.*

236. *Id.* at 161–62.

237. *See id.* at 161, 247.

#### 4. Consultation with Trusted Outsiders

“Mr. President, I shared the [troop surge] option with the chiefs before I came over.” General James Cartwright, Vice Chairman of the Joint Chiefs of Staff, uttered these words to Obama at a national security meeting on November 23, 2009.<sup>238</sup> Throughout the Afghanistan strategy review of 2009, trusted associates in each member’s unit of the executive branch consulted each other and reported back to the primary decision-making national security team.<sup>239</sup> As Janis postulates, this seems to have helped the group avoid groupthink because they were consistently seeking opinions from outside of the decision-making group.

#### 5. Consultation with Outside Experts

“I know you don’t want to work full-time in government,” Obama told Bruce Riedel, a national security expert at the Brookings Institution, “but here’s a proposition. Will you come into government for 60 days, work in the [National Security Council], do a strategic review of Afghanistan and Pakistan?”<sup>240</sup> This kind of consultation with non-governmental experts took place as well. For example, just as a troubled corporation might hire outside consultants, General Stanley McChrystal’s Afghanistan strategy review included bringing outside experts into a war zone to assess the situation.<sup>241</sup> The idea behind this review team came in part from General David Petraeus’s 2007 playbook for Iraq (when the largely successful troop surge took place).<sup>242</sup> The review team consisted of “an experienced group

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238. WOODWARD, *supra* note 192, at 295.

239. *See id.* at 192.

240. *Id.* at 88.

241. *See id.* at 148–49.

242. *See id.* at 148. At this point, it is important to note that Bush’s decision regarding the 2007 troop surge can be considered a successful counterpoint in effective decision-making processes to the groupthink-influenced decision making that took place regarding the decision to invade Iraq. *See supra* Part IV. As the war progressed, the Bush team began to open up to new ideas, and the symptoms of groupthink similarly began to diminish. Both the cohesion and structural faults in the decision-making group decreased, and although a provocative situational context still existed, it was less stressful than in the first year following the attacks of 9/11. In a sign that the illusion of invulnerability had begun to fade, Bush states that the summer of 2006 was the first time he worried that he actually might not succeed. *See BUSH, supra* note 1, at 367. Unrealistic optimism thus began to yield to sobering realism. Bush mentions that on August 17, 2006, he convened a national security team meeting at which he authorized a review of the strategy in Iraq, given the large increase in sectarian violence that had taken place. *See id.* at 370–71. “I wanted [the team] to challenge every assumption behind our strategy and generate new options.” *Id.* at 371.



of analysts who were willing to challenge the assumptions of high-ranking generals.”<sup>243</sup>

6. “Second Chance” Meeting for Expression of Doubts

“Why are we having another meeting about this? I thought this was finished Wednesday. Why do we keep having these meetings after we have all agreed?”<sup>244</sup> Although expressing slight exasperation, Obama proceeded with a “last chance” meeting before deciding to send 30,000 additional troops to Afghanistan.<sup>245</sup> This meeting served as a final opportunity for group members (especially Pentagon officials, in this instance) to share residual doubts and to rethink the entire issue before making a definitive choice.<sup>246</sup>

VII. REMEDIES TO AVOID GROUPTHINK IN PRESIDENTIAL FOREIGN POLICY DECISION MAKING

Whereas group leaders and decision makers themselves can successfully prevent groupthink through “internal checks,” the unique dynamics of presidential power, especially in the areas of national security and foreign policy,<sup>247</sup> are such that presidents may fail to institute successful internal procedures that would prevent groupthink. A president may fail for one of three reasons: (1) the president is unaware of the costs of groupthink and will therefore fail to prevent it; (2) the president is aware of groupthink and may even consider the benefits of preventing groupthink to outweigh its costs, but cannot successfully institute internal checks to combat some or all of the root causes of groupthink; or (3) the president is

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This showed a marked difference from pre-war decision making: instead of converging on a policy from the outset with almost no serious deliberation, the team was instructed to seriously consider a number of alternatives.

One of the main criticisms from the start of the war was that the United States grossly underestimated the number of forces that would be needed once Saddam Hussein was toppled to keep the peace. The Bush Administration subsequently considered this argument, among others, and eventually opted for a troop surge. *See id.* at 378. Politically, it was the most unpopular option, with a troop withdrawal being the most popular. *See Nagourney & Thee, supra* note 129. Nevertheless, the strategy worked, and by the time the surge ended in the summer of 2008, violence in Iraq had dropped to the lowest level since the first year of the war. *See BUSH, supra* note 1, at 389.

243. *See* WOODWARD, *supra* note 192, at 149.

244. *Id.* at 311–12.

245. *Id.* at 301–02.

246. *Id.* at 312–15.

247. *See supra* Part III.

aware of groupthink, but considers the costs of prevention to outweigh its benefits (for ideological, political, or other reasons) and is therefore unwilling to adopt the necessary mechanisms to prevent it. Consequently, “hybrid” and external mechanisms for the prevention of groupthink in presidential foreign policy decision making need to be considered.

#### A. INTERNAL CHECKS

Internal checks originate in the core decision-making group. The president, one or more group members, or both group members and the president collectively should implement these checks.

##### 1. Building Moderate Cohesiveness

Presidents should aim to create a moderate level of cohesiveness in the primary foreign policy decision-making group. One way of achieving this cohesiveness is to include members who can work with each other in a respectful manner, but who are not necessarily friends. When the bonds of friendship are too strong, high cohesiveness results, and a desire to preserve these bonds can silence dissent and encourage concurrence seeking. Thus, presidents should seek a moderate level of heterogeneity when selecting Cabinet members and top White House staff officials in order to promote a diversity of views that will challenge any assumptions within the group and promote the active exploration into alternative courses of action.

##### 2. Preventing Structural Faults Within the Group or Organization

Presidents and their advisers should implement Janis’s nine recommendations to promote methodical decision making and avoid the formation of the structural faults that increase concurrence seeking.<sup>248</sup> Presidents and their advisers should also strive to keep a balanced agenda. If too many resources are devoted to one particular policy, presidents and decision-making groups not only risk ignoring other policy areas altogether, but also risk that they will fail to consider insights gleaned from these other policy areas when weighing the primary policy. This problem is exemplified by presidential decision making during the Iraq War. When resources were diverted from the War in Afghanistan to the Iraq War, not only was the likelihood of policy success in Afghanistan reduced, but also decision making regarding Iraq suffered, as members of the decision

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248. *See supra* notes 74–86 and accompanying text.

making group became more insulated and failed to fully account for all the risks involved.<sup>249</sup>

### 3. Controlling Stress

Presidents should also seek out independent experts to evaluate external threats. These experts can provide a realistic assessment of the external threat posed and thus help group members avoid the stress acting as a catalyst for groupthink. If the group takes the threat more seriously than it should be, stress levels will be higher, and, in turn, decision makers will face lowered self-esteem and an increased tendency to seek consensus rapidly. Presidents should seek to strike a balance between excessive optimism and undue pessimism to keep group members' morale high in the face of recent failures, complex situations, or moral dilemmas.

Additionally, presidents and their advisers should be aware of the changing meaning of "wartime" and the word's ability to evoke a provocative situational context. Presidents and their advisers should strive to recognize the growing chasm between the past meaning of wartime, which was imagined to have a beginning and an end<sup>250</sup> (even if imprecise or blurred), and its contemporary character—especially as applied to the War on Terror—in which an end is no longer in sight. Such recognition of the long-term nature of the conflict would change decision makers' expectations and, thereby, help decrease some of the stresses associated with war. Because wartime has become the default time rather than the exception, it would be unrealistic to remain in a state of high stress indefinitely.<sup>251</sup>

#### B. "HYBRID" CHECKS

Neither the president nor the decision-making group members implement "hybrid" checks; the checks do, however, originate in the executive branch and directly affect the president and the group members. Hybrid checks relate to the bureaucratic machine and typically address the structural faults within the executive branch that can affect the core decision-making group. Although the president and his or her advisers constitute the insiders of the decision-making group, they ultimately belong

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249. *See supra* Part IV.C.7.

250. *See supra* Part III.A.2.

251. *Id.*

to a larger organization—the executive branch—and thereby become part of the bureaucratic machine.

### 1. Inter-Agency Process

The “inter-agency process” check involves getting approval for, or opinions about, a proposed decision from other agencies.<sup>252</sup> The inter-agency process is particularly common for national security and foreign policy decisions.<sup>253</sup> “Occasionally, it will operate at a higher level in principals’ committees involving Cabinet-level or sub-Cabinet people and their deputies,” thus directly checking the decision-making group members.<sup>254</sup>

### 2. Intra-Agency Process

Another similar check is the “intra-agency process,” in which the circulation of proposed decisions within the agency empowers dissidents and harnesses a diversity of thinking.<sup>255</sup> If nothing else, the process catches errors, or at least increases the odds of avoiding them, given the number of people who must review or approve a document or decision within the agency.<sup>256</sup>

### 3. Agency or Lawyer Culture

The culture of a particular agency—the institutional self-awareness of its professionalism—provides another check.<sup>257</sup> “Lawyer culture”—which places high value on competency and adherence to rules and laws—resides at the core of agency culture,<sup>258</sup> its “nay-saying” objectivity “is especially important in the small inner circle of presidential decision making to counter the tendency towards groupthink and a vulnerability to sycophancy.”<sup>259</sup>

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252. Raven-Hansen, *supra* note 5, at 987.

253. *Id.*

254. *Id.* at 988.

255. *Id.* at 989.

256. *Id.*

257. *Id.* at 990.

258. Raven-Hansen, *supra* note 5, at 990.

259. *Id.* at 991.

#### 4. Public Humiliation

A final check in this category is the “public humiliation” check.<sup>260</sup> This check only comes into play when the previous three have failed, and involves the threat to “‘go public’ by leaking embarrassing information or publicly resigning.”<sup>261</sup>

### C. EXTERNAL CHECKS

External checks originate outside of the executive branch. The primary actors are Congress, the public, and the press, all of whom can provide both direct and indirect checks. Because internal and hybrid checks often fail (as in the case of the Bush Administration), external checks are essential. Furthermore, if external checks are strengthened, the mere threat of them being exercised could increase the Administration’s own use of internal checks in order to avoid having external checks imposed.

#### 1. Congressional Oversight

Congress has an important role to play as an external check to prevent the antecedent conditions of groupthink from arising in the president’s decision-making group.<sup>262</sup> There are many ways in which Congress can provide external checks.

First, “[t]he Senate, regardless of which party is in power, [can] aggressively exercise its confirmation powers to assure the persons taking the reigns at the [Department of Justice and the Office of Legal Counsel] are committed to the “arms-length” and not the “client” model of executive branch lawyering,” which tends to increase concurrence-seeking.<sup>263</sup> Also, in regard to powerful positions such as Director of National Intelligence and CIA Director, the Senate should carefully scrutinize appointees to ensure integrity and accountability.

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260. *See id.*

261. *Id.*

262. FISHER, *supra* note 91, at 261–62

If the current risk to national security is great [as presidents often argue in favor of exercising war powers], so is the risk of presidential miscalculation and aggrandizement—all the more reason for insisting that military decisions be thoroughly examined and approved by Congress. Contemporary presidential judgments need more, not less, scrutiny.

263. Marshall, *supra* note 92, at 521.

Additionally, Congress as a whole should closely monitor the executive branch's invocation of precedent.<sup>264</sup> While previous administrations' actions might provide some precedential authority for their own actions' legality, this is not alone determinative:

[E]xecutive branch precedents should not be seen as conclusive or even necessarily persuasive in establishing constitutionality. Moreover, other administrations' forbearance in not taking similar actions in comparable circumstances also should be considered precedential authority. In this manner, the precedential value accorded previous executive branch actions will no longer favor only expansive notions of presidential power.<sup>265</sup>

Congress should especially assert this oversight role in the areas of national security and foreign policy.

Congress should also make greater efforts to combat executive-branch secrecy.<sup>266</sup> "If a major check on the presidency is political accountability to the citizenry, such accountability cannot occur without transparency."<sup>267</sup> And, if the abuse of presidential power that can lead to insulation and, consequently, groupthink is to be curbed, "reforms that would minimize secrecy and impose more accountability on the executive branch should be seriously considered."<sup>268</sup> Congressional intelligence and foreign policy committees in both the House and Senate must exercise their oversight powers to a greater extent, particularly when the committee chairs belong to the same party as the president. Reforms could include, for example, passing legislation that—in contrast to the present ad hoc regime—would mandate periodic meetings between congressional committee leaders.

## 2. The Role of the Public

In addition to influencing presidential decision making through opinion polls and elections, the public may help prevent groupthink indirectly through think tanks and public-interest groups, which have greater resources and opportunities to consult officials and exert checks on executive branch decision makers.

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264. *Id.*

265. *Id.*

266. *Id.* at 522.

267. *Id.*

268. *Id.*

### 3. The Press

The press has an important role to play, especially when Congress is not acting as swiftly or strongly as it could. The press can have an immediate effect through investigative journalism by breaking stories that can humiliate the president and his or her decision-making team members. This humiliation would, in turn, work to prevent groupthink in the president's administration and decision-making group.

## VIII. CONCLUSION

This Note has highlighted the danger of groupthink syndrome in presidential foreign-policy decision making. As the examples of groupthink fiascoes in presidential administrations have demonstrated, groupthink can severely deteriorate decision-making processes, thereby reducing the likelihood that an efficient outcome will result. In the post-9/11 world, an increased likelihood that this danger will manifest, particularly during "wartime," has resulted from a continuing expansion of presidential powers.<sup>269</sup> While President Obama and his decision-making team seem to have successfully prevented groupthink in the decision-making process that led to the increase in troops in the War in Afghanistan, it is important that current and future administration members remain alert to the dangers of groupthink to avoid the foreign policy fiascoes of past administrations.

Nevertheless, it is equally important that external actors such as Congress, the public, and the press actively check and engage with the president and his or her advisers to prevent the excesses of executive-branch power that contribute to the antecedent conditions for groupthink syndrome. The inquiry does not end here. Further studies should, for example, explore the applicability of successful anti-groupthink decision-making procedures employed in other institutions, such as the military, in which political influence is low at the lower and middle levels of command.

While this Note does not attempt to provide a panacea, the recommendations contained herein can do much to reduce the likelihood of future executive-branch groupthink. This reduction in groupthink would go

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269. FISHER, *supra* note 91, at 261 ("The drift of the war power from Congress to the President after World War II is unmistakable . . . Presidents now regularly claim that the commander-in-chief clause empowers them to send American troops anywhere in the world, including into hostilities, without first seeking legislative approval.").

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a long way toward improving the quality of presidential decision-making processes regarding foreign policy and, as a result, would increase the likelihood that decision makers explore and ultimately implement the most efficient course of action.