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Presidential Accountability for Wars of Choice

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This paper focuses on how Congress and the American people evaluate presidential wars of choice. When it comes to whether or not to use American military power, presidential discretion is virtually unchecked¹. The war power is for that reason the issue that best exposes the costs of a too exclusive reliance on retrospective as opposed to prospective accountability. I use brief case studies of Korea, Vietnam and Iraq to show that reliance on retrospective accountability is particularly unsatisfactory in the context of peace and war. In the runup to each of these wars, for example, Congress deferred to presidents who insisted on the need for military action (or authorization for such action) despite lack of clear provocation (e.g., an attack on the United States) and without a vision of the objective backed by well-specified operational plans that could stand the test of time. In each of these cases, Congress offered little serious oversight until stirred to do so by shifts in public opinion brought on by mounting costs in American blood, treasure, international credibility and domestic harmony not justified by battlefield success. Public opinion was a force to be reckoned with, as shown by its eventual impact on Congress and on the subsequent political fortunes of presidents Truman, Johnson and the second Bush. But citizens did not press Congress to act until it was too late to influence the initial decisions to send in the troops.

This is a tradition that leaves presidents unsupervised at a critical stage. The situation is not improved by either the 1973 War Powers Resolution or the prospective 2009 War Powers Consultation Act. Thus I ask, in conclusion, what



© Reuters/Jonathan Ernst - A view of Lafayette Park near the White House is seen in Washington.



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procedure might actually produce more carefully vetted decisions that (whether seen as right or wrong in the long run) are most likely to ensure that praise or blame for the result is shared by the president with Congress and the people?

Introduction

Wars of choice are conflicts portrayed as necessary and urgent by the president against nations that have not attacked the U.S. Why do presidents start such wars? In part because they can; but also because they believe it serves some vital national purpose to do so.

Early in U.S. history, there was significant principled opposition against wars of choice. In 1847, newly elected congressman Abraham Lincoln—who later as president went to great lengths to avoid initiating the Civil War—expressed a “clear-cut position against President Polk’s presidentially initiated war against Mexico, and against such a war of choice as an instrument of state policy” declaring it “unconstitutionally and unnecessarily” started by the president². President John F. Kennedy evoked this Lincoln standard in a 1963 American University speech: “The United States, as the world knows, will never start a war.” Franklin D. Roosevelt, the most authoritative war president in American history, after Lincoln, affirmed the practice. Despite the grave dangers posed by Hitler’s European conquest, FDR respected Congress and the people’s opposition to U.S. involvement in World War II, which were expressed and codified in the Neutrality Acts of 1935 and 1937. Yet ten years later, President Truman sent troops to Korea without consulting Congress³.

Of the many unprovoked presidential military initiatives in U.S. history, the Korean, Vietnam, and Iraq wars are the largest and most significant, and therefore the focus here. As these case studies will show, wars of choice are rightly considered the most important problem facing the network of formal and informal checks and balances that make up the presidential accountability system. Among the reasons why are: the high costs and unpredictable consequences associated with war; the lack of authentic opportunities for Congress or public opinion to influence war decisions; plus the emergence of majority popular and congressional dissatisfaction with the progress and results of these particular wars.

These case studies also show that presidents Harry S. Truman, Lyndon B. Johnson and George W. Bush did not seriously consider the alternatives to war, engage in systematic cost-benefit analyses of the war option, or try to anticipate worst-case scenarios before sending in the troops. Presidents were left unsupervised at a critical stage, allowed to initiate conflicts without sufficient and rigorous justification. As a result, each incurred large costs in blood, treasure, international credibility, and domestic trust. As many historians and political scientists have argued, these presidents overinterpreted and oversold

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the provocations, to one degree or another. Disciplined choice procedures cannot guarantee an outcome that will be perceived as successful in the long run by Congress and the American people. However, careful analysis can improve the odds. As matters stand, decision procedures will be rigorous if and only if the president insists. None of these presidents insisted.

The presidencies of Truman, Johnson and George W. Bush sustained massive political damage as these wars came to be seen as ill-considered and ill-advised. In the case of Vietnam, the backlash of revulsion delegitimized not only the president but the office⁴.

These case studies validate the need for *prospective* accountability for wars of choice, a remedy I propose in conclusion. Prospective accountability here means unprecedentedly authoritative and rigorous pre-invasion “peer-review” for presidents bent on elective war—to be undertaken only when military action can safely be deferred.

Korea

The Korean precedent is particularly important. Presidents Johnson and George W. Bush were told by their advisors that, due to Truman’s action in Korea, they were free to initiate wars without formal congressional approval⁵. Ironically, U.S. involvement in Korea began with a mistake: the Truman administration failed to clarify in advance, to itself and the world, that it would defend South Korea should the communist North Koreans invade. Soviet leader Joseph Stalin, whose approval was required⁶, would not have agreed to Kim Il Sung’s June 24, 1950 invasion if he thought it would provoke a U.S. military response⁷. Both Stalin and Sung thought that South Korea was low-hanging fruit, harvestable at little cost without major international implications. Surprised by the attack, Truman vowed to “stop the SOB’s no matter what,” and five days of meetings with national security and military advisors followed.

Truman sought to explore all available options. However, his group of advisors mistakenly interpreted Sung’s invasion as a test of U.S. resolve by the Soviet Union and rushed into war. Unbeknownst to them was Stalin’s non-provocative intent at the time.

But there were other salient realities—known or knowable—that should have received more attention. For example, U.S. signals to the Soviets and North Koreans, articulated in a speech by Secretary of State Acheson, had been dangerously misleading. That alone should have sparked serious consideration of whether the North Korean invasion could accurately be viewed as a deliberate provocation of the U.S.

Advisors present at these meetings were also well aware of the militarily untenable situation involved in fighting in Korea. The U.S. would need to send

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in a steady supply of well-trained American ground troops onto the Asian mainland, for as long as it took and under brutal battleground conditions. Worse, vastly superior numbers of enemy troops, from North Korea and China, would always be close by and available. Military leaders expressed these reservations at early meetings, but once they realized that Truman did not want to hear their “wary counsel” they stopped offering it⁸. If the deliberations had included Congress, their argument might have carried more weight.

Most pro-Western observers initially wanted a strong U.S. response and felt that Truman did the right thing by sending in the troops. However, some scholars have argued that Truman might have been able to avoid committing the U.S. to war without producing a backlash at home or disrupting the alliance system⁹. This option was not seriously considered in the early decision meetings, although it may have been in a formal, interbranch deliberative context.

On June 30, after deciding to send in the troops, Truman considered seeking congressional approval but ultimately did not. Given the supportive public mood, he knew that Congress would not immediately object. But he also knew that Republicans would use an authorization debate as a forum to attack him and his policies. Given the ugly political climate following the successful 1949 A-bomb test by the Soviet Union, 1949 fall of China to the Communists, and rise of the demagogic Sen. Joseph McCarthy (R, WI), Truman chose not to endure¹⁰. Instead, as he later explained to a group of congressmen: “I just had to act as Commander-in-Chief and I did.”¹¹

Initially, Cold War emotions persuaded both Congress¹² and the people¹³ to rally behind Truman’s June 30 decision to intervene. But war news soon turned bad, as early as October 19, when the Chinese entered the war. And support quickly evaporated, dropping from the high 70’s to below 50 percent. For the remaining two and one-half years of the war, support hovered within a narrow range well below 50 percent,¹⁴ despite successful events, such as General MacArthur’s Inchon landing, or the extensive public relations effort to build support for the war.¹⁵ In fact, Americans had given up on the war and their president. By October 1951, 56 percent of respondents agreed with the Gallup Poll proposition that Korea was a “useless war.” By March 1952, 51 percent said U.S. involvement was a mistake. After April 1951, Truman’s approval score would never exceed 33 percent¹⁶.

Not surprisingly, congressional support began to weaken and fragment¹⁷. The heated constitutional issue of Congress’s formal role in Truman’s decision would emerge with a vengeance. Encouraged by the accumulation of bad war news, conservative Republicans, who had initially offered only token resistance, began to complain that Congress had not been consulted. Partisan attacks on the president became increasingly acrimonious. By early 1952, after another year of some war highs but mostly setbacks, Republicans were in high dudgeon and a battlefield stalemate was apparent. Senator Robert Taft, by then a GOP

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presidential candidate, summarized the emerging consensus: "the greatest failure of foreign policy is an unnecessary war, and we have been involved in such a war now for more than a year... As a matter of fact, every purpose of the war has now failed. We are exactly where we were three years ago, and where we could have stayed."¹⁸

The war itself was brutal, bloody and costly, given the loss of some 54,246 American lives and its \$361.2 billion price tag (in 2005 U.S. dollars¹⁹). "Truman's War" would continue to be seen as ²⁰a costly failure even after the military stalemate ended, on July 27, 1953, in an armistice that achieved Truman's stated objective of restoring the pre-invasion 38th parallel.

Decades later, such respected historians as Hamby, and Patterson²¹ credited that achievement as having promoted world stability and making the best of an extremely difficult situation. Truman himself, who left office with support scores in the low 20's, would by then also be extolled as a near-great if not great president²². But scholars such as Schlesinger²³, Bernstein²⁴, Perret²⁵ and Halberstam²⁶ have, for various reasons, disagreed with the most positive assessments, particularly those touching Truman's decision to go to war in Korea and Congress effectively surrendering war power to the president.

Vietnam

The Vietnam War was also a Cold War presidential initiative. The outbreak of the Korean War intensified U.S.-Soviet tensions. It also shifted U.S. Indochina policy from post-World War II anticolonialism to containment. That led President Truman to send U.S. aid to the French military effort in Indochina to prevent their defeat and halt the spread of communism²⁷. After the 1954 fall of the French at Dien Bien Phu and the partition of Vietnam into separate nations, President Dwight D. Eisenhower sent weapons and economic aid to South Vietnam. This "fastened the prestige" of the U.S. to that nation²⁸. President John F. Kennedy upped the ante by deploying 16,500 advisers to prepare the South Vietnamese to defend themselves²⁹. But these moves merely set the stage for the critical decisions of 1964 and 1965.

It was President Lyndon B. Johnson who opted for a second major land war in Asia. LBJ was initially very wary of Vietnam. In a 1963 meeting with high foreign policy officials, shortly after President Kennedy's assassination, Johnson first expressed his dissatisfaction with U.S. operations³⁰. In early 1964, aides to Johnson privately drafted a congressional resolution that would give the president a virtual blank check to conduct the Vietnam War as he saw fit³¹. Most were Kennedy holdovers, ardent anti-communists, cold-warriors and supporters of the idea that the U.S. should expand its use of power in Vietnam. They, like the president, did not want to repeat Truman's failure to ensure formal

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congressional support for any action they might take. But Johnson, fearing the cost of a controversial war proposal to his Great Society ambitions, and still uncertain of his own convictions in light of the instability of the South Vietnamese government, held back.

In August 1964, an emotional national reaction to apparent North Vietnamese attacks on U.S. spy boats led Johnson to ask for and get the Gulf of Tonkin Resolution. It empowered him to “take all necessary measures” to repel attacks and prevent aggression against the U.S. and its regional allies. The resolution received an 85 percent poll approval rating and wide editorial support³². It passed the House unanimously and in the Senate by a vote of 88-2³³.

Yet, the president still held back. Outside his advisory circle, LBJ was known to be deeply upset about U.S. prospects in Vietnam³⁴. The South Vietnamese government was in disarray and its counterinsurgency efforts against the Viet Cong were ineffective. But by late fall 1964, LBJ was under intense pressure from his closest advisers, the Joint Chiefs of Staff, and much of the American foreign policy establishment to strike the North with a bombing campaign. A prevailing opinion among foreign policy elite at the time was the “domino theory,” which suggested that to allow one nation to fall to communist insurgents exponentially increased the chances that others would follow.

Instinctively leery of bombing the North, LBJ asked Under Secretary of State George Ball, who famously embraced the role of “devil’s advocate” in the president’s inner circle, to summarize the case against increasing U.S. engagement. Ball responded with a persuasive brief against such action, which Johnson subsequently pressed against those advisors who supported escalation.

At this moment, the president questioned whether any escalation of the war could salvage the South Vietnamese government³⁵. Furthermore, others close to the president strongly discouraged enmeshing the U.S. in another Asian war. Ball, Vice President Hubert Humphrey and the president’s longtime friend and mentor Senator Richard Russell were among those who objected further U.S. engagement³⁶. But, as comprehensive telephone records show, LBJ communicated with these people far less frequently than with such war hawks as National Security Adviser McGeorge Bundy, Defense Secretary Robert McNamara, and Secretary of State Dean Rusk³⁷.

The domestic political climate in early 1965 was unlike that of the Korean War, and President Johnson wasn’t feeling pressured to increase military force in Vietnam. In January 1965, as surveys showed, most members of the U.S. Senate were in favor of a negotiated solution, as were most Americans. LBJ was at the peak of his popularity and had just been elected, following a campaign in which he frequently said that Asian boys should fight their own wars. Too, the choices available to Johnson were much broader than just intervention and nonintervention. “In fact there were so many possible strategic options in

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Southeast Asia in early 1965," as political scientist Fred Greenstein writes, "that it is unlikely that any two presidents would have proceeded identically."³⁸

With no time pressure, the political capital of a landslide electoral victory and abundant congressional and public support for nonmilitary as well as military alternatives, Johnson could have initiated a rigorous examination of U.S. options in Vietnam.

However, Johnson was far less confident of his own foreign policy judgment than he was of his domestic convictions³⁹. Determined not to be labeled soft on communism, he ultimately felt compelled to heed the advice of JFK holdovers McGeorge Bundy and Robert McNamara and use military force to change communist policy⁴⁰.

In February 1965, LBJ initiated the "Rolling Thunder" bombing campaign, the first of many actions leading to escalation. By June, General Westmoreland requested some 60,000 troops to defend against retaliatory Viet Cong attacks on U.S. air bases. By 1968, there were 535,000 U.S. troops on the ground. Nothing on this scale had been anticipated or planned for at the beginning.

Despite feeling compelled to escalate to protect America's cold war credibility, Johnson opted for decidedly limited military action. There would be no full-scale U.S. invasion of the North, use of nuclear weapons, or (in the early going) planned mass introduction of American troops. These self-imposed limitations were aimed at a complex set of goals: protecting Great Society momentum at home, signaling the Soviets and the Chinese that the U.S. wanted no wider war or nuclear confrontation, and using just enough military force to motivate North Vietnamese regulars and Viet Cong guerillas to respect the 1954 Geneva Agreement on a 17th parallel partition of Vietnam. At the same time, LBJ sought to placate domestic anti-war liberals while convincing conservative war hawks in and outside Congress of his Cold War bona fides.

Because his aims were irreconcilable, LBJ's public pronouncements on Vietnam appeared sometimes deceptive and often garbled, creating both his "credibility gap" and reputation as a poor communicator. For example, suggesting that the war was limited and manageable, when the public believed it to be out-of-control, ultimately confused people and intensified their revulsion. As a result, the president lost public support.

The 1968 Tet Offensive, Walter Cronkite's post-Tet visit to Vietnam and subsequent CBS Evening News broadcasts ultimately turned the public against the war. By August 1966, Johnson's public support declined to 47 percent. For the remainder of his presidency, it remained in the 40's with occasional dips into the 30's⁴¹. Johnson's declining popularity further inflamed political opposition against the war and the president. By then the domestic anti-war movement had intensified and would eventually drive this beleaguered president from office.

Vietnam was unarguably a war of choice, albeit one perceived as necessary in context by many of "the best and the brightest."⁴² In retrospect, however, many

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analysts deem it an unnecessary war with multiple costs and no rewards. Fifty-eight thousand Americans lost their lives. According to the Congressional Research Service, \$686 billion (in 2008 dollars) were expended. Overshadowed were the legislative achievements—civil rights, education, Medicare, Medicaid—of arguably the most effective domestic president of the 20th century.

Iraq

When President George W. Bush decided to invade Iraq in 2003, public sentiment still reflected the euphoria of the successful and widely supported incursion into Afghanistan in 2001 and the seared emotions sparked by the September 11 attacks.

However, despite the political climate, the American public and the international community didn't clamor for a second war, especially a war on Iraq. "If the United States had never gone to war against Iraq," wrote one expert critic, "most Americans would hardly have cared or even noticed"⁴³. But the president had bolstered his credibility by his forceful words and deeds in response to 9/11. The American people were for that reason inclined to respond to the persuasion attempts of a man so widely perceived at the time as a strong and trustworthy leader⁴⁴. They accepted his characterization of the new state of affairs as a "war on terror." They would accept the need to invade Iraq as well.

By all accounts, the president, along with many inside his administration and some outside, felt that the post-9/11 climate afforded a rare, not-to-be-missed opportunity to mobilize popular and congressional support for a military effort to topple the Saddam Hussein regime in Iraq⁴⁵. The president's defenders claim that he opted for war as a result of a thorough and careful review of his options in light of U.S. interests⁴⁶. Others suggest the president had personal reasons as well: Saddam's attempt on his father's life⁴⁷, and his eagerness to display transformative leadership by boldly altering the balance of power in the Middle East⁴⁸. Many agreed with the president that it would be beneficial to rid the world of an unsavory dictator who either previously had, had now, or might soon acquire weapons of mass destruction⁴⁹. Others saw great potential in establishing a democratic beachhead in the Middle East⁵⁰. Few analysts, however, saw invading Iraq as a necessary next step in preventing future attacks by Al Qaeda. In fact, many leading Republicans in Congress and foreign policy specialists from previous Republican administrations thought that the benefits of avoiding such a war far outweighed the probable costs⁵¹. Some saw continued deterrence and containment of Saddam as much safer and potentially more effective than invasion⁵². The president was undeterred by these arguments.

Many have asserted that there was little or no formal deliberation inside the Bush White House about the wisdom of initiating a war, or any systematic effort

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to anticipate and prepare for worst-case scenarios. The president prided himself on being an “instinct player” trusting his own judgment, which he felt was buttressed and guided by a higher power. Many insider accounts portray an administration that was indifferent or hostile to “the reality-based world,” facts or arguments not supportive of its preferences⁵³.

What was the potential for a full and fair prospective review in the months leading up to the invasion of Iraq?

In support of the debate option was the fact that there was no significant time pressure, no immediate threat to the United States that obviously required either a pre-emptive or a preventive invasion of Iraq⁵⁴. What made such a vetting unlikely, however, was that the administration was implacably opposed to an extended debate on the merits. Public shock in response to 9/11 and the natural fear of another terrorist attack were both still palpable, and were assets in what seems to have been a calculated effort to truncate debate. The president, knowing that public fears would recede, apparently sought to extend them by manufacturing a new Iraq-specific sense of urgency. As President Bush stated, “Each passing day could be the one on which the Iraqi regime gives anthrax or VX nerve gas or someday a nuclear weapon to a terrorist ally”⁵⁵. In his 2002 State of the Union Address, the president declared Iraq a part of an “axis of evil,” which included nations that armed and sheltered terrorists. The president also asserted that he would not “wait on events (either fresh provocations or extended debate) while dangers gather.”

The president approached Congress wanting its approval but displayed obvious disdain for its considered opinion. Despite the assertion that he had the constitutional authority to initiate hostilities without congressional approval⁵⁶, the administration still thought it prudent to seek a congressional resolution of support. But President Bush made clear his aversion to a deliberative process, telling members of Congress: “I want your vote. I’m not going to debate it with you.”⁵⁷ Congress obliged, passing the Authorization for the Use of Military Force against Iraq by a margin of 296 to 133 in the House (October 10, 2002) and by a margin of 77 to 23 in the Senate (October 11, 2002).

On a scale of one to ten, ranging from “manipulative” to “respectful,” how would I characterize the president’s treatment of the Congress and the American people in persuading them to support the invasion of Iraq? The available evidence suggests that his conduct be scored no better than 2. In the most comprehensive effort yet undertaken to determine whether high Bush administration officials portrayed the Iraq threat as graver than it actually was, the Senate Select Committee on Intelligence concluded that Bush and Cheney “repeatedly overstated the Iraqi threat in the emotional aftermath of the Sept. 11 attacks” before the March 2003 invasion⁵⁸.

By 2009, the Iraq War no longer dominated the news. But its costs have been high. As of October 29, 2008, the war had claimed 4,189 U.S. lives. The

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Congressional Budget Office estimates that by 2017 the war will have cost between 900 billion and \$1.3 trillion.⁵⁹ And polls regularly show that the U.S. image abroad has been significantly damaged by the Iraq War.⁶⁰ Such costs in blood, treasure, and international credibility contributed to President Bush's public approval, in the mid-to-upper 20's as of November, 2008⁶¹. Large majorities still called the war a mistake⁶².

Implications

These cases of Korea, Vietnam and Iraq display regrettable patterns of ill-considered presidential decisions for optional wars that become widely perceived as unsuccessful and/or not worth their costs, and undermined popular support for the presidents involved. They also raise questions as to the wisdom of the discretionary war powers claimed by these presidents: claims not effectively challenged since the Truman precedent.

I suggest a remedy—a turn to *prospective* rather than standard *retrospective* accountability—by putting the war policy on trial *before* the president may initiate hostilities, rather than waiting until *after* the costs have incurred. When time permits, Congress should mandate a prospective review before the president is authorized to send in any troops.

Prospective review has been averted not by lack of congressional power, but by some missing incentives. Presidents since Truman have no incentive to share the war power with Congress since the body hasn't used its plenary power to force it. But Congress won't force it without reliable political cover from the people. And the people cannot be expected to supply political cover without a formal public debate on the war policy, in which they clearly have an actual role to play.

Needed, therefore, is a formal procedure featuring an authentic debate on the merits, and not merely rally events with little more than temporary emotional support for the president's war policy. Putting a war policy on trial before it is implemented will either avoid ill-advised wars or build more durable support for wars found justifiable.

Currently, policy trials are not politically feasible. But the failure of the War Powers Resolution of 1973 and the timidity of the recently proposed War Powers Consultation Act of 2009⁶³ suggest that anything noncontroversial enough to be politically feasible will not be strong enough to work. So before addressing the feasibility issue we should first ask what could be strong enough to work without altering the Constitution. I propose a policy trial.

Conclusion: Policy Trials

Putting a war policy on trial before it is implemented will either avoid ill-advised wars or build more durable support for wars found justifiable.

The model for policy trials is the impeachment process, as described in Article 1 sections 2 and 3 of the Constitution, where the prospective war policy, and not the president, is examined. The power to establish a policy trial process is in Article 1 Section 4, which grants each House the right to determine the rules of its own proceedings.

The process, triggered by a majority vote of the House, would impose special rules of order designed to create a debate on the merits before any congressional resolution or declaration of war is possible.

Invoking the procedure implies that the president must formally defend the proposal against well-prepared opponents, with the Chief Justice presiding and the Senate empanelled as the jury. Importantly, this entails a temporary suspension of traditional deference to the president, who is now free to evade, steer or obstruct such debate at any time.

Most importantly, invoking the procedure signals the public that something rare and serious has been initiated. They will pay closer attention to the (inevitably televised) proceedings, with the press telling them, if history is any guide, that their reaction will be vital in determining the outcome. Public opinion has often been highly influential in a variety of high-profile formal congressional proceedings, such as the Army McCarthy hearings; the McCarthy censure; the Irvin Committee hearings on Watergate; and the Clinton Impeachment and Senate trial. Public opposition to U.S. engagement in World War II led Congress to pass two Neutrality Acts, in 1935 and 1937, which kept a frustrated President Roosevelt from helping the allies.

These examples suggest that policy trials could help crystallize a public consensus, which in turn could influence and politically protect members of Congress, who typically follow the public's lead.

A final question: are policy trials an attack on the presidency? No, because a policy that is carefully vetted before adoption has a better chance to work. This helps the president. And a president who persuades the people and Congress through a disciplined policy review, rather than an emotional rally campaign, is more likely to implicate them in the choice—and thus the blame if things go wrong. Blame-sharing rooted in thoughtful prior approval can reduce the system-draining recriminations that followed Korea, Vietnam and Iraq.

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