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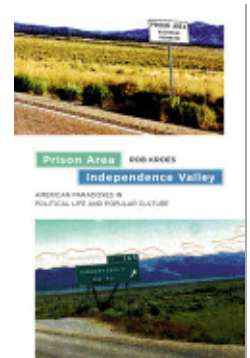
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OBAMA AND THE PARADOX OF AMERICAN
GLOBAL POWER: DREAMS OF DEMOCRACY
AND THE IMPERIAL IMPERATIVE

AMERICA'S POWER AND presence in the world are still unrivaled. One connection between its power and presence is through a worldwide system of military bases, whose number is about a thousand. It is a system of high interconnectivity, involving cutting-edge communications technology. Pinpoint military actions take place by remote control from halfway around the globe by people sitting at consoles at nodal points in the communication web. This configuration of power and military hardware conjures up an image of empire of worldwide reach. As such the United States faces the central concern of every empire before it: the control of sources of unrest and restiveness within the limits of its imperial reach. In other words, it is subject to what we might call the imperial imperative. Empire is as empire does.

How does this square with the long-established view, among Americans as well as among those peoples at the receiving end of America's imperial sway, of America as a benevolent power, a guardian of democracy and political freedoms? What, if anything, has changed in America's international presence? Is it a matter of perception only, of people waking up to the reality

of the exercise of power, or have America's foreign policy elites fallen prey to the dictates of imperial leadership?

This essay will address these two questions. Can the United States be meaningfully seen as an empire in the ways it has behaved since entering the world stage as a central player after World War II? Secondly, if it is an empire, how has this affected the quality of its democratic life and institutions? One central hypothesis connects both explorations. It can be formulated as follows: if there is a logic to the life of empires that one might call the imperial imperative—a logic according to which the pursuit of hegemonic control to the far periphery of empire calls for ever greater concentration of power at the center—the United States too will show the effects of this logic. In spite of its creed of democracy and republicanism the U.S., acting as an empire, cannot escape this imperial imperative. An obvious test case is offered by the two recent presidencies of George W. Bush and of Barack Hussein Obama. Although the latter presented himself as the anti-Bush, opposing all transgressions of constitutional constraints that his predecessor had stood for, and promising to take America back to its first republican principles, the imperial imperative, according to our hypothesis, would prevent Obama from pursuing such a course.

Democracy and the Imperial Imperative

On December 6, 2011, President Obama followed in President Theodore Roosevelt's footsteps and delivered a speech in Osawatimie, Kansas. "In 1910," as he reminded his audience, "Teddy Roosevelt came here to Osawatimie and he laid out his vision for what he called a New Nationalism. 'Our country,' he said, 'means nothing unless it means the triumph of a real democracy . . . of an economic system under which each man shall be guaranteed the opportunity to show the best that there is in

him.” Like Roosevelt before him, Obama had come wielding a big stick, holding forth against political gridlock in Washington politics, and the ideological stranglehold of the “You’re on your own” economics of Republicans. The “raging debate over the best way to restore growth and prosperity, restore balance, restore fairness,” Obama argued, is “the defining issue of our time.” Obama pointed to the growing inequality and income disparity in American society: “Inequality also distorts our democracy. It gives an outsized voice to the few who can afford high-priced lobbyists and unlimited campaign contributions, and it runs the risk of selling out our democracy to the highest bidder. It leaves everyone else rightly suspicious that the system in Washington is rigged against them, that our elected representatives aren’t looking out for the interests of most Americans.” Like Roosevelt before him, Obama spoke on behalf of a more inclusive view of democracy and the national interest.

On another Rooseveltian theme, though, the theme of empire and the way it affects democracy, Obama was strangely silent. And not only in Osawatomie. It is a theme that had divided Rooseveltian Progressives against themselves, with minority voices like that of Jane Addams warning of imperialism’s baneful impact on democracy at home. It is a theme that on similar grounds Obama might have seen as equally a defining issue of our time.

At the top of his rhetorical mastery, in speeches concerning racism as a divisive force in American society, or the use of military power in foreign policy, Obama finds his place in America’s great tradition of the statesman as public orator and master of rhetoric. In that role he explains, renders account, and invites the public to reflect. Obama is keenly aware of this long line of history, using it to place himself squarely in an American political tradition. When acceding to the presidency in early 2009, Barack Obama appeared as the anti-Bush that many during the campaign had come to see in him. When he took the oath of office, swearing to defend and uphold the Constitution of the United States, it seemed like the first step in rolling back the relentless

encroachment upon the restraints of executive power set by the Constitution and by international law as endorsed by the United States. Obama had all the right credentials for this role. As a senator he had voted against the war in Iraq as an illegal war of aggression. As a candidate he promised to close Guantanamo Bay's detention center, which in the eyes of the world had come to symbolize the illegitimacy of the ways in which the United States, under President Bush, had chosen to wage its global war on terrorism. Obama appeared like the man who would bring to light the dark and secret world, beyond the reach of law and legal protections, that America had ventured upon, a world of illegal surveillance of its own citizenry, a world of secret renditions of terrorist suspects, and of torture and high-tech retaliatory assassination. He appeared to bring a promise of ending all this and returning to a presidency under the law, rather than above it. In words from his inaugural address: "My administration is committed to creating an unprecedented level of openness in government."

If hopes were pinned so high on the Obama presidency, how would this square with the trends in American presidential leadership that come under such names as the unitary executive, or the imperial presidency? The trend was seen by many observers, in the United States and Europe, as a continued erosion of America's democratic and constitutional order, a continued power grab by the American president who as chief executive officer in charge of the national interest felt unduly hampered by established constitutional constraints, such as the institutional checks and balances or the constitutional protection of civil rights and civil liberties. Ever more intrusive in the fabric of social relations in the name of antiterrorist surveillance, ever more scornful of institutional countervailing powers, the Bush presidency subverted the American constitution, although held by oath to protect it. This can be seen as only the latest, most daring, version of what Arthur Schlesinger in his 1968 book *The Imperial Presidency* had held out as a warning to Americans.¹

In fact this suspicion of slow democratic erosion goes back further, to such World War I American pacifists as Jane Addams, who reminded Americans of the connection between a warfare state and dictatorship. Precisely Bush's war on terrorism, a war without an exit option, allowed him to venture ever further on the way to the unitary executive. Thus he rewrote legislation, duly enacted by Congress, with signing statements giving him leeway not to implement laws as enacted. Thus he could create dark zones beyond the reach of American law, such as most ignominiously at Guantanamo Bay. Glaring examples abound. When President Bush signed a new law, sponsored by Senator McCain, restricting the use of torture when interrogating detainees, he also issued a presidential signing statement. That statement asserted that his power as commander-in-chief gave him the authority to bypass the very law he had just signed. This news came fast on the heels of Bush's admission that, since 2002, he had repeatedly authorized the National Security Agency to conduct electronic surveillance without a warrant, in flagrant violation of applicable federal law. And before that, Bush had declared he had the unilateral authority to ignore the Geneva Conventions and indefinitely to detain without due process both immigrants and citizens as enemy combatants. The pattern behind all these blatant presidential encroachments on the law and the Constitution led to pointed revisits, in the later years of the Bush administration, of the phrase "unitary executive" as almost a code word for a doctrine favoring unfettered executive power.²

Many of the worries and concerns in Europe about this imperial drift in American politics fed directly into Europe's feelings of anti-Americanism. Hopes were that Obama, taking his oratorical cues from Lincoln, Roosevelt, Kennedy, and Martin Luther King, might indeed take the United States back to its first high principles (which, as Machiavelli reminds us, is the central recipe for preserving a republic). This would require a more direct, and intellectually articulate, communication with his American and world audience. Yet, given the pressure on him to exert his lead-

ership as a president who called the war in Afghanistan a “war of necessity,” temptations were great to cut constitutional corners in the manner of his predecessor. Obama may find it hard to give up gains in executive power as they have accrued to the presidency over the preceding years. Yet in a democratic spirit, upholding the Constitution, while scaling back some of the legal enormities of the Bush administration, he must be held to develop ways of forceful leadership that Americans and non-Americans alike will see as convincing and legitimate.

At present, though, things do not bode well. In fact, many signs point rather in the direction of continuity with Bush administration practices. Thus, in the crucial civil rights area of the treatment of detainees held in the context of the war on terror, the Obama administration took steps and invented arguments to maintain the power to imprison terrorism suspects for extended periods without judicial oversight—most recently, in 2012, in the National Defense Authorization Act. The man who as presidential candidate had still spoken of the false choice between fighting terrorism and respecting habeas corpus, and who had rejected the Bush administration’s attempt at creating a black hole at Guantanamo, now did exactly that by moving detainees to Bagram airbase, beyond the reach of constitutional protections.³ In the same vein, the man who, as presidential candidate reminded his audience that as a former constitutional law professor he would, unlike the current president (that is, George W. Bush), actually respect the Constitution, acted in contravention of the 1973 War Powers Resolution adopted by Congress when he authorized U.S. military intervention in Libya.⁴ In the tortured language of Orwellian newspeak, Obama denied the Libyan intervention was a war at all. Hence, the War Powers Resolution did not apply.⁵ Ironically, Obama thus cast aside a congressional resolution whose intention it had been to restore the balance between the powers of Congress and the presidency after years of the balance tilting toward the executive.

As a further point, rather than the government itself living up

to its promise of “unprecedented openness,” we see a resurgence of leakers of secret government policies—of “whistleblowers,” most famously including Julian Assange, Bradley (now Chelsea) Manning, and Edward Snowden—reminiscent of the days of the leaked Pentagon Papers. The culmination points so far have been the flood of Wikileaks foreign policy documents, followed by the massive leaks of documents concerning the work of the NSA. The Obama administration’s response was vindictive and very much in the manner of an insulted sovereign. In the manner of a unitary executive, without due process, it held an alleged leaker of documents, Bradley Manning, in solitary confinement, and stepped into the field of economic transactions, blocking credit card payments to Wikileaks, in addition to pressuring foreign governments in its search for the main culprit, Julian Assange.⁶ The administration would have acted similarly in the case of Edward Snowden, had he not found sanctuary in, of all places, Russia. Even before the Wikileaks furor, though, the *New York Review of Books*, over the names of left-wing luminaries including Daniel Ellsberg of Pentagon Papers fame, published a paid, page-long call “To end the complicity of silence,” reminding the readers that “Crimes are Crimes No Matter Who Does Them.” Side by side are two portraits of Bush Jr. and Obama linked by this caption: “Crimes under Bush are crimes under Obama and must be resisted by anyone who claims a shred of conscience.”⁷ High on the list of government abominations is the freedom it takes in composing lists of suspects of terrorism, including U.S. citizens, selected for assassination. The text goes on to indict the Obama administration for expanding the use of drone attacks and for arguing that the United States has the authority under international law to use extrajudicial killing in sovereign countries with which it is not at war. Such acts have now been consecrated into “standard operating procedure” by Obama, who claims, as did Bush, executive privilege and state secrecy in times of war as he defines it. Like Bush, Obama uses pliant legal counselors where he can find them, in the White House, the Pentagon, the

State Department, or the Department of Justice—that is, from within the executive bureaucracy—to produce legal memoranda waiving legal restraints on the executive in the defense of the national interest.

Like the phrase “unitary executive,” the words “executive privilege” are suggestive of constitutional law doctrines justifying the leeway presidents grant themselves in their unilateral choice of means in defense of the national interest. On previous occasions, as in the Truman Steel Seizure Case or the Nixon administration’s refusal to make public the Oval Office secret tapes, the claim of executive privilege was tested by the Supreme Court and found wanting.⁸ The Obama administration has not yet come up to a similar test. Not surprisingly, the president has seen his policies of secrecy given the blessing of conservative commentators. In an op-ed piece in the *Wall Street Journal*, entitled “Barack Obama: Defender of State Secrets,” Gabriel Schoenfeld, a senior fellow at the Hudson Institute, had this to say: “It is not an overstatement to say that secrecy today is one of the most critical tools of national defense. Leaks of counterterrorism secrets to the press, and disclosure of counterterrorism techniques and procedures in courtrooms, can imperil the war effort. We are thus faced squarely with the abiding tension between liberty and security.” What Schoenfeld calls the “carping civil-libertarian critics” may, as he admits, serve a useful purpose in guarding against government excesses. But Schoenfeld goes on to conclude that “the more voluble they become, the more apparent it also becomes that Mr. Obama is doing the right thing.”⁹ Judged by the company Obama attracts, we would be hard put to recognize in him what so many during the campaign had hopefully anticipated. As president he found himself in a role as commander-in-chief, fighting two ground wars and a more general one against the elusive enemy of global terrorism, without a clear exit strategy. They are wars he took over when entering office, and that he has pursued by means that make it hard to see a personal touch to distinguish him from his predecessor, let

alone to recognize the signs of a transformational presidency. Yet those were the words that Colin Powell, a black Republican, used in his quiet and eloquent television endorsement of Obama during the electoral campaign.¹⁰ There is irony today in referring back to this moment. Here we had a man who had given his name to a military doctrine, the Powell doctrine, reminding military planners never to enter a war without a clear exit strategy. Yet well into his presidency President Obama was mired in wars without exit strategies, expanding programs of secret action in the Middle East, without any prospect of the endeavor holding the promise of a new beginning.¹¹ But more than that, Obama seems mired in the insider ways of Washington while losing the rapport he had with the broad constituency that carried him to the presidency. If his march to the White House testified to the power of rhetoric, Obama has found no way yet, it seems, to use the presidency as a bully pulpit to engage and educate his public in the moral dilemmas of the exercise of power. In other words, he has not yet developed a rhetoric of power.

Such a demanding form of rhetorical discourse would, of course, call for more than Bush's sound bite uttered with a smirk: "I am the decider,"¹² or more generally the boastful language accompanying America's position as "sole remaining superpower" following the collapse of the Soviet Union. If there was a rhetoric of power discernible at all in those days, it was the language of arms speaking, of a Wilsonianism in boots, or of the "shock and awe" inspired by America's arsenal of high-tech weapons. In contrast to this, a rhetoric of power, as I here envision it, would demand Obama once again to rise above himself, above the din of voices in Washington circles and the media, and to address the ethical dilemmas and quandaries of democratic leadership, to address the tension between secrecy and national security, and to become the democratic educator that Lincoln was before him. It would entail more than the rhetorical projection of power in the face of external threats confronting the nation, more than the construction of an enemy image and the demonization of the

enemy, as in president Reagan's rhetoric of power, when he spoke of the Soviet Union as "the evil empire."¹³ It would entail rendering a public account of the unintended consequences of the uses of power, as they range from open military confrontation, and its accompanying "collateral damage" of civilians killed by U.S. fire, to secret programs of assassination, rendition, and imprisonment. These are all means of confrontation that may well result in swelling the ranks of enemy forces rather than quelling them. Using public speech to convey such a sense of irony, if not of the tragic quality of democratic leadership, is a tall order and does not necessarily go down well with the larger public. When President Carter tried to wean Americans off the conventional rhetoric of the Cold War, speaking instead of the "inordinate fear of Communism,"¹⁴ it was taken as a sign of softness, if not weakness.

The problem confronting President Obama in this respect is that on a number of occasions he has, in public speeches, reached out toward the Muslim world, trying to take away its inordinate fear of the United States, and to contribute to mutual understanding through diplomatic means and the power of public speech. Yet, neither in the Middle East nor among the American public, has he managed to reconcile his guiding visions with the actual policies that he pursues or has left in place.

Addressing the Chicago Council of Global Affairs on April 23, 2007, when still a Democratic senator and presidential hopeful, Barack Obama said: "I still believe that America is the last, best hope of Earth. We just have to show the world why this is so. This President (that is, George W. Bush) may occupy the White House, but for the last six years the position of leader of the free world has remained open. And it's time to fill that role once more. The American moment has not passed. The American moment is here. And like generations before us, we will seize that moment, and begin the world anew."¹⁵ Casting himself as a Promethean pretender to the role of leader of the free world, he could never hope to make a fresh start with a clean slate.

While aiming at beginning the world anew, he had to confront a world as it was left to him, like a chess player taking over a game halfway through, confronting all the constraints set before him. Entering the Washington corridors of power, with a freshly won mandate, must have felt like stepping into an arena ring-fenced by entrenched interests, veto groups, and contending ideological views of the national interest and America's place as a world power.

In 2011 it was fifty years since President Eisenhower had left office and had used the occasion to reflect on the ominous rise of what he called the military-industrial complex, commonly referred to later as the military-industrial-political complex. Eisenhower, at the height of the Cold War, warned against an American foreign policy set on a course of undue militarization, while undermining America's democratic ways.¹⁶ Ironically, it was only after the Cold War and the collapse of the Soviet Union that such militarization proceeded apace. What had been gestating as a neoconservative project, envisioning a twenty-first-century America whose military power would be unrivaled and preeminent, now became the accepted discourse, touted by right-wing politicians and media pundits alike.

Currently, the American defense budget approaches the combined defense budgets of all other nations, friends and foes combined. U.S. defense outlays now consume roughly half of all federal discretionary dollars. The United States now has between seven hundred and a thousand military bases all over the globe, with new construction of drone bases proceeding apace. It can project military power in ever new technological ways. Yet if this policy is to be more than a very expensive insurance policy, against what threat, what enemy, is it meant to offer protection?

Here, I would argue, President Obama has his work cut out for him. Rather than letting himself be co-opted into this militarized view of the world and American foreign policy, it is not yet too late for him to grasp the moment and start to educate the American people. At a time when deficits at all levels of gov-

ernment threaten America's infrastructure, its education, health and welfare institutions, as well as its overall prosperity, Obama should address these issues by publicly reflecting on the costs of the current national security state, its financial costs as well as its human and political costs. As one opinion poll after another makes clear, the American people are stunningly unaware of such things. Given the right-wing control over the terms of public discourse, here is a challenge for the master of rhetoric that Obama has proven to be. Were he to take it up, it would be a new beginning indeed.

And yet, for a man with Obama's powers of speech there are strange moments of silence, of speechlessness. Surely, as on the occasion of the January 2011 point-blank fusillade in Tucson, where a deranged youngster wounded a congresswoman among a number of others and killed six people, among whom a young girl, Obama finds the words of consolation for grieving parents and a grieving nation. Rising above the toxic cesspool of what ranks as public debate and discourse in the United States today, he grasps the moment to educate the nation in the ways of civility and civilized debate. Yet when the child killed is not American, but a Pakistani or Afghan victim of the American way of war, killed on Obama's watch as commander-in-chief, he has not so far addressed the terrible moral dilemma that presents itself. Nor, more generally, does he speak to the central civil rights and human rights problems that his "targeted assassination" approach has opened up. Distant wars are being fought at the far-away *limes* of empire, passed over in silence, it may seem, by the American people. Yet, slowly but surely, the voice of a concerned public conscience is beginning to be heard, in the Blogosphere, and on the printed pages of America's leading intellectual journals and newspapers.

On only a few occasions so far has the Obama administration taken up the challenge and come up with a public account of its policy of targeted assassinations. On March 5, 2012, Attorney General Eric Holder, in a speech at Northwestern University's

Law School, essentially made the point that the United States is a nation at war, facing “a nimble and determined enemy that cannot be underestimated.”¹⁷ Given such conditions of war, Holder continued, “we must also recognize that there are instances where our government has the clear authority . . . to defend the United States through the appropriate and lawful use of lethal force.” By government Holder means the president, as the one person to decide what is appropriate and lawful, the one person who weighs the legalities of a case against the threat of imminent danger. Under such conditions considerations of due process are safe in the hands of the executive as sole protector of the national security. It may not be due process as commonly understood, yet people should rest assured that the president acts on mature consideration, following judicious process rather than formal due process. Under conditions of war, the populace should take the president’s word for it that justice has been done. National defense has thus become a matter of presidential say-so. If Holder’s argument points in any clear direction, it is toward a continuing “unitary executive,” relentlessly eroding a government of law, and under the law, as the United States has known and enjoyed it for most of its history as a republic.¹⁸

A State of Exception?

Comparing the Bush Jr. and Obama presidencies, looking for contrasts yet disturbingly finding continuities may leave one clueless as to possible explanations. After all, when Obama first acceded to the presidency, he had drawn clear lines to distinguish his administration from the preceding one. He would close the Guantanamo Bay detention facility; he would end the use of what euphemistically had become known as “enhanced interrogation techniques,” or, more realistically, torture; he would end the practice of so-called extraordinary rendition and the use of a secret international network of “black holes” where terror suspects disappeared into extralegal limbo. In short he would end

all those transgressions of the ways of constitutional government that had stained America's image in the world and stoked the fires of anti-Americanism. He promised to take government back to transparency, the rule of law, and the protections of citizenship rights as guaranteed by the U.S. Constitution. Yet he refused to hold members of the previous administration to account, preferring to "look forward rather than backwards," as he put it. He preferred this to having it formally established in court when and where the previous administration had engaged in criminal behavior, breaking national and international law. In fact, his administration has fought the courts to block *civil* suits against torture perpetrators, claiming the privilege of state secrets.

This may have been dictated by political expedience. But was it also a political calculus when Obama early on called the war in Afghanistan a war of necessity, opting for an Iraq-like military surge before setting a deadline for the withdrawal of troops? Was it to protect his right flank, and fend off accusations of being soft on terrorism, when he stepped up the use of drones in the airspace of countries, such as Pakistan, with which the United States was not formally at war, or when he engaged in drawing up lists of people, U.S. citizens among them, to be killed without any form of due process or judicial oversight? Or do we need to look for another explanation when we wish to account for a disturbing range of counterterrorism policies that are ever more secretive, without check or balance, ever more intrusive into the privacy of individual citizens or the sovereignty of independent states, and yes, in disturbing continuity with many of the policies of the preceding administration in its war against terrorism?

One way to account for the continuity would be to see both administrations in the context of post-9/11 history, both equally involved in a continuing confrontation with terrorism as a global threat. Both administrations used the war against terrorism as justifying their transgressions of peace-time legal constraints. Secret memos produced by legal counsel from within the executive, such as the "torture memos" of the Bush years, or the memos

justifying assassinations by drone in the first Obama administration, testify to this trend. In other words, they both claimed a state of exception to account for the way they curtailed citizens' freedoms and rights. Both administrations, one might argue, thus acted as all governments do when engaged in war. Wartime constraints, then, may be seen as exerting a stronger pull than any high-minded promises of a return to the rule of law. If so, Obama's policies may be seen as the hard-won lessons of realism forced upon a man of different inclinations.

But is this account really convincing? In spite of what in-house lawyers in the Bush and Obama administrations have argued, if the United States is really engaged in war, what sort of war is it? For one thing, it is an undeclared war, and perhaps more important, it is war without end, without final surrender or meaningful victory. It is not like the American Civil War, or the two world wars the United States was involved in. A better parallel would be the Cold War, which like the war on terrorism is more a metaphor than the real thing. Yet both the Cold War and the current continuing war against terrorism are warlike in their effects on governments and populations. Under the threat of imminent attack, both governments and populations are ready to go into war mode, militarizing the entire tone of daily life and of governmental policy.¹⁹ In a state of continuing alert and fear, populations are willing to see government powers expand and social resources mobilized in defense of the nation. This is what gave rise to the institutions and instruments of what would become known as the surveillance state, or the national security state, or, more flippantly, the warfare state. They coalesced into the enduring structures of what we can no longer meaningfully call a state of exception. Many of the war-mode strategic and tactical responses that the Bush and Obama administrations have come up with are, on closer inspection, no more than elaborations on themes well established since early Cold War days. Those were the days when America first became aware of its position of hegemon in the world, a position that—as the Greek etymology of

the word suggests—asked for leadership and dominance. Those were the days when American leadership first implied the projection of an imperial view of the world, giving a global cast to the emerging Cold War conflict.

Shaping its role, America engaged in developing the panoply of tools it needed for deploying its power. Many were visible and aboveboard, like building up a war arsenal, developing new weapons, setting up military alliances. All this went to structure its empire, its power reach, and to define the perimeter of its area of hegemony. Yet drawing on lessons learned during two real wars, World War I and World War II, in the manner of a new state of exception, the United States morphed into invisible forms of government. In their 1964 book *The Invisible Government*, the authors, David Wise and Thomas B. Ross, caused a shock from its very first paragraph: “There are two governments in the United States today. One is visible. The other invisible.” The authors continued: “The first is the government that citizens read about in their newspapers and children study about in their civics books. The second is the interlocking, hidden machinery that carries out the policies of the United States in the Cold War. This second, invisible government gathers intelligence, conducts espionage, and plans and executes secret operations all over the globe.”²⁰ By 1964 the U.S. Intelligence Community, or IC, had nine members, including the CIA, the Defense Intelligence Agency (DIA), and the National Security Agency (NSA). As Wise and Ross portrayed it, the IC was already a labyrinthine set of secret outfits with growing power. It was capable of launching covert actions worldwide, with a “broad spectrum of domestic operations,” the ability to overthrow foreign governments, if need be through political assassinations, and the capacity to plan operations without the knowledge of Congress or full presidential control. “No outsider is in a position to determine whether or not, in time, these activities might become an internal danger to a free society.”²¹ By 2012 the IC, with seventeen official outfits, had almost doubled. The internal danger they jointly pose

has grown incommensurably larger. With the latest technology of data gathering and data mining, massive flows of communication between individuals within the realm are now continually being stored and analyzed, without proper oversight, without means of legal recourse for individual citizens.

This invisible government has surrounded itself with a wall of secrecy, jealously and vindictively protected from whistleblowers through the revival of dormant antiespionage legislation. The 1917 Espionage Act, duly enacted by Congress at a time of real war, during a real “state of exception,” and never used since, is now dusted off and has been used on several occasions by the Obama administration. When the state of exception has become the “new normal,” civil oversight of government actions has become a distant dream. Exposing patent war crimes through channels such as Wikileaks, or the rise of a surveillance state through the massive leaks by Edward Snowden, has now become a crime itself.

All this is reminiscent of an earlier episode, in the post-Watergate years, when an emerging imperial presidency found its check and balance in a Congress eager to regain its constitutional role. The Pentagon Papers case was thrown out of court for miscarriage of justice. Hearings by the Church Committee brought secrets of the “invisible government,” as it had been shaping up during the Cold War, to light. Congressional powers were restored, as in the War Powers Act. CIA ventures in the area of political assassination were stopped as being illegal, unwarranted by claims of war-connected states of exception.

The long history of the imperial presidency has resumed its irresistible course since. If assassinations as an instrument of covert foreign policy had been proscribed in the 1970s, extrajudicial killing by the U.S. government has now become routine, an acceptable tool in the war against terrorism, a war with no end in sight. The state of exception proclaimed in connection to that war, a connection emphasized in legal memos for the government and in the few public accounts given by government

officials, has now come to define the “new normal.” Exception has become the rule.²²

The constant surveillance of human interactions and exchanges within the reach of America’s empire, the deployment of military force through a network of interlinked bases, the walls of secrecy surrounding it all, form today’s U.S. invisible government.²³ It is a government that in its own inner logic makes for one, undivided center of command and control. It is the inexorable logic that I earlier gave the name of the imperial imperative. It exerts its compelling force on whoever holds the office of president and commander-in-chief, the person in charge of both the visible and invisible government. Juggling both roles of elected chief executive and guardian of national security under conditions of war, presidents have come to stretch the limits of states of exception to the point where the exception becomes the rule. If we still need a definition of American exceptionalism, this may be it.