A Portfolio Theory of Foreign Affairs: U.S. Relations with the Muslim World

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I. INTRODUCTION

This Article analyzes foreign affairs through modern portfolio theory, with special emphasis on U.S. relations with the fifty-seven states of the Muslim world.1 Harry Markowitz, the author of the modern portfolio theory, argues that “a good portfolio is more than a long list of good stocks and bonds. It is a balanced whole providing the investor with protections and opportunities with respect to a wide range of contingencies.”2 The application of this theory to foreign affairs means that a nation’s foreign policy is a set of investments analogous to investments in the stock market. Foreign policy portfolios are thus economic, diplomatic, and military investments that a

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nation makes in international affairs to protect and promote its interests and values. These portfolios can cultivate economic ties with other nations, forge peace treaties and defense alliances, offer cultural exchanges for mutual awareness, provide assistance to needy nations, and make international commitments to human rights. Successful portfolios can earn substantial return on investments, which raises the national standard of living, safeguard national security, furnish leadership opportunities in international institutions, and generate goodwill that the nation and citizens can draw on to cultivate beneficial relationships across borders. In contrast, failed portfolios can undermine diplomatic and economic relations, provoke economic sanctions and trade boycotts, weaken national security, increase risk of invasion and terrorism, and negatively affect citizens’ opportunities in international markets. The United States invests significant economic, military, and diplomatic resources in international relations with the Muslim world. Unfortunately, the return on these portfolios has been disappointing.

The portfolio theory acknowledges a vibrant and complex world of international relations in which nations, large and small, prosperous and underprivileged, strong and weak, cooperate and compete with each other to protect national security, acquire natural resources, develop trade opportunities, influence geopolitical events, and advance national interests and values. Although nations launch portfolios to promote their interests and values, they do not always succeed. For a host of reasons, including national egotism, domestic politics, incompetence, scarcity of diplomatic resources, lack of vision, and misinterpretation of geopolitical realities, nations launch and maintain losing portfolios. For the same reasons, some nations, unable to discard or readjust failing portfolios, compound risks to their national interests and values. Just as experienced investors can pursue unprofitable portfolios in capital markets, likewise, experienced nations can launch unsuccessful portfolios and expose the nation to serious domestic and international threats. The portfolio theory clarifies why certain portfolios, even though they are harmful to the state’s national interests and values, cannot be discarded or readjusted.

The portfolio theory presumes that international relations are highly competitive, and even contentious. Much like other states, Muslim states and the United States administer portfolios to compete for natural resources, economic prospects, trade opportunities, diplomatic esteem, and leadership seats in international institutions and agencies. They also launch portfolios

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3 Glenn Palmer & T. Clifton Morgan, A Theory of Foreign Policy 3–6 (2006). The authors mention foreign policy portfolios but focus more on what they call two-good (change and maintenance) theory. The authors, however, make an important point that the state’s foreign policy should be considered in terms of a bundle of portfolios. The two-good dualistic thesis, conceived at a high level of generalization, appears to be too all-encompassing and, therefore, sometimes uninstructive. It fails to recognize that foreign policy is a messy business, sometimes anchored in incompetence and ignorance, that sometimes changes when it should maintain, and maintains when it should change, and sometimes violates national supreme interests and international law.
to compete for ideological influence so that other nations respect their economic, political, religious, and constitutional frameworks. Sometimes Muslim states and the United States pursue mutually incompatible interests. Similarly, investors in capital markets pursue conflicting interests taking long and short-term positions in the same company, currency, or index. Unlike conflicting positions in stocks, currencies, and indexes that purportedly add stability to capital markets, conflicting portfolios may pose substantial risks to international peace and security. And just as securities laws are needed to regulate capital markets, international law is critical for discouraging nations from pursuing unlawful portfolios. Regulatory agencies, such as the World Trade Organization and International Atomic Energy Agency, can deter unlawful portfolios and maintain balance between lawful but contentious portfolios.

The portfolio theory further presumes that state behaviors are so varied and complex that uncertainty (maybe chaos) rather than orderliness permeates international relations. U.S. portfolio managers face a highly complex Muslim world that is both diverse and united. Consisting of over a billion individuals, the Muslim population epitomizes human diversity as its members belong to distinct geographical, racial, ethnic, linguistic, and cultural communities, some with little shared historical experiences. For many centuries, Arab and Turkic communities belonged to the Ottoman Empire. The Caliphate associated with the Ottoman Empire symbolized the global unity of Islam. Since dissolution of the Ottoman Empire in the 20th Century and the rise of the nation-state, Muslims have become dispersed and divided. Arabs cherish their new nation-states while the Arab League strives for the elusive goal of Arab unity. Central Asian states are breaking away from the communist past and realigning with the Muslim world. Indonesia and Malaysia, located in the Chinese sphere of influence, are developing as prosperous states committed to Islam. Iran and Pakistan, though geographically contiguous, process international relations differently. Pakistan values its ties with the United States, whereas Iran paints the United States as the “Great Satan.” Kashmiris, Palestinians, and Chechens, living under non-Muslim states, interpret geopolitical realities as occupied

4 The concept of Caliphate (Khilafat) is derived from the Qur’an. See Qur’an, sura al-Baqara 2:30. The term khalifa means a successor. Although the Qur’an uses the term khalifa in a nonpolitical sense, the establishment of the Caliphate after the Prophet’s death acquired spiritual-political meaning. The first four Caliphs, all the Prophet’s companions, are highly regarded in Islamic law. The later Caliphs, however, lost their spiritual authority, and turned into political heads of the Islamic world.


Geographical divergence and viewpoint diversity do not permit Muslims to pursue shared objectives in many international matters.

The Muslim world, despite its outstanding diversity, is united to the extent that Muslims strongly believe that they constitute “One Community,” a concept that the Qur’an endorses. Certain global events demonstrate the dynamics of One Community. The desecration of the Qur’an at Guantanamo caused resentment and riots in many Muslim states. Likewise, derogatory cartoons of the Prophet Muhammad agitated Muslims across the world. Whenever Islam and the Prophet Muhammad are insulted, particularly in the “West,” Muslims react with anguish and anger.

Nothing seems to bring Muslims together more than the resentment they share against the Israeli occupation of Palestinian lands. The Organization of Islamic Conference (“OIC”), an intergovernmental organization of Muslim states, was launched in 1969 to support the struggle of the Palestinian people, though the OIC has now expanded its mission to a multipurpose agenda. The United States, though a close ally of Israel, is trying hard to connect with Muslims at home and abroad. Unfortunately, for reasons discussed below, anti-Americanism runs deep through the entire Muslim world, despite many Muslim governments’ alliances with the United States.

Here applied exclusively to relations between the United States and Muslim states, the portfolio theory has universal scope and application as a

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12 Reflecting sentiments of the Ummah, the Organization of Islamic Conference has sponsored a General Assembly Resolution to combat defamation of religions. G.A. Res. 64/10 A/RES/64/156r (Dec. 1, 2009). Although the 57 states of the OIC support the resolution, all Western nations, including the United States, oppose the resolution as an infringement on freedom of speech and freedom of the press. In 2009, the Obama Administration voted against the Resolution, thus maintaining the prior U.S. policy on defamation of religions. THE BECKET FUND FOR RELIGIOUS LIBERTY, U.N. EFFORTS TO PASS A BINDING INTERNATIONAL BLASPHEMY LAW (2010).
14 In February 2002, 39 percent of persons polled held the view that just a few Muslims living in the United States were anti-American, while 8 percent believed that all or most Muslims are anti-American. 18 percent did not know or refused to answer the question. Press Release, The Pew Forum on Religion & Public Life (Feb. 2002).
theory of foreign policy. However, no theory can fully capture the international behavior of all states. The portfolio theory may have to be adjusted to explain the international conduct of weaker states that invest fewer diplomatic, economic, and military resources in international relations. The theory may not fully explain the behavior of resourceful states that invest heavily in international relations but, unlike the United States, do not have a multiplex ensemble of portfolio managers and special stakeholders that influence foreign policy. Descriptively, the portfolio theory illuminates the behavioral dynamics of international relations. Prescriptively, the theory urges nations to readjust and discard failing international portfolios as do judicious investors in capital markets.

II. PORTFOLIO MANAGERS AND STAKEHOLDERS

This section presents the key concepts of portfolio managers and stakeholders. In most cases, the state’s portfolio managers design and operate portfolios for the welfare of general stakeholders. In the United States, the President and Congress serve as portfolio managers while U.S. citizens are general stakeholders. Many international portfolios, however, are derived from narrow interests of special stakeholders. Special stakeholders, comprised of domestic and foreign groups, may influence the state’s portfolio managers to launch international portfolios that serve special interests but that also may or may not benefit general stakeholders.

Influential states themselves may act as special stakeholders in the foreign policy choices of weaker states. They target weaker states to adopt portfolios that benefit foreign interests but not the weaker state’s general stakeholders. All too often, U.S. portfolio managers behave as special stakeholders demanding pro-U.S. portfolios from Muslim states. For example, the Obama Administration has enticed Pakistan to take military action against the Pakistani Taliban and other Muslim militants fighting the NATO occupation of Afghanistan.\textsuperscript{15} NATO countries launched this portfolio to protect their interests as special stakeholders, and it is highly unpopular among Pakistan’s people.\textsuperscript{16} The people have expressed this unpopularity through multiplied suicide bombings against the Pakistani government and its law enforcement agencies.\textsuperscript{17} Consequently, Pakistani portfolio managers play a double game (running with the hare and hunting with the hounds) to appease both special stakeholders and its own people.


\textsuperscript{16} Public Opinion in Pakistan: Concern About Extremist Threat Slips, PEW RESEARCH (July 29, 2010), http://pewresearch.org/pubs/1683/pakistan.

\textsuperscript{17} Pakistan Suicide Bombing Kills Dozens, BBC NEWS (Dec. 25, 2010), http://www.bbc.co.uk/news/world-south-asia-12078248.
A. Portfolio Managers

Portfolio managers are the highest state officials vested with sovereign powers to design, launch, and administer international portfolios. Each nation designates its principal portfolio managers, either in the constitution or on an ad hoc basis. Since Muslim states are highly diverse with various forms of government ranging from cultish dictatorships such as Libya, to fragile democracies like Pakistan, the identification of portfolio managers submits to no single model. In relations with the United States, however, most Muslim states act at the highest level of state authority. Kings, Presidents, Prime Ministers, and military generals directly intervene as portfolio managers. Frequently, the United States itself demands direct contacts with the Muslim head of state or head of government.

Because most Muslim states lack domestic institutions and pressure groups involved in foreign affairs, the person in charge of state affairs frequently serves as the exclusive portfolio manager. That person in charge, whether Hosni Mubarak in Egypt (formerly) or Muammar Gaddafi in Libya, may have foreign policy consultants and advisors, but faces few institutional or constitutional constraints in designing portfolios. Constitutions in most Muslim states rarely provide parliamentary oversight of foreign policy. Consequently, exclusive executive control over international portfolios is standard in most Muslim states.

In contrast, portfolio management can also be highly complex and diffused. For example, the U.S. Constitution designates the President and Congress as co-managers of international relations. The Constitution does not permit either the President or Congress to design or execute portfolios singlehandedly. In reality, however, the average member of Congress has little say in the development of foreign policy. In most matters, the President and Congressional leaders wield extraordinary foreign policy powers. In cases involving high degrees of confidentiality, the President and congressional leaders, in essence, form a small club to influence the formation and execution of international portfolios.

The U.S. President is the plenary source of foreign policy: the President commands key constitutional powers and serves as the principal portfolio manager. The military power vested in the President can be highly

18 But see Turk. Const. art. 87. The Turkish Grand National Assembly has the power to ratify international agreements and declare war.
19 See U.S. Const. art. I, § 8; U.S. Const. art. II, § 2.
20 See generally U.S. Const. art. I, § 1; U.S. Const. art. II, § 1; U.S. Const. art. III, § 1.
22 See Steven S. Smith et al., The American Congress 132 (5th ed. 2007).
23 Under Article II of the U.S. Constitution, “The executive Power shall be vested in a President of the United States of America.” This exclusive executive power vested in the President can be asserted in both domestic and foreign relations. U.S. Const. art. II.
formidable in the hands of war-prone Presidents. But even peace-prone Presidents can use military power to launch and influence portfolios. In addition to formal powers, the President gathers informal powers through the two-party system and personal influence. The President is more powerful in administering portfolios if his party commands a majority in the Congress. Likewise, the President can fund portfolios with less difficulty if his party commands a majority in the House of Representatives, which has the constitutional power to appropriate funds. The President’s personal influence and the will to shape foreign policy could also facilitate the exercise of additional powers. These aggregate powers, however, rarely allow the President to freely conduct foreign policy and bind the nation to international obligations as the President wills.

In both theory and reality, therefore, the President cannot be the exclusive portfolio manager. The President must share foreign affairs powers with House and Senate leaders, who are mostly well-known incumbents entrenched in national politics. The U.S. Constitution allocates substantial foreign affairs powers to Congress, including the right to declare war, to borrow money on the credit of the United States, to regulate commerce with foreign nations, to define and punish offenses against the Law of Nations, and to raise and support armies. Furthermore, the President shares foreign policy powers with the Senate. The President must obtain the advice and consent of the Senate to make treaties and appoint ambassadors. With respect to international affairs, congressional powers belong to the entire Congress. As a practical matter, however, these powers are delegated to those members of Congress who occupy positions on important Standing Congressional committees in both Houses, particularly Appropriations, Foreign Affairs, and Homeland Security committees. These incumbents are securely locked in office while Presidents come and go; they play a leading role in designing and maintaining international portfolios. The President is rarely permitted to design or manage portfolios without the consent of congressional incumbents.

24 The President is the “Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States.” U.S. CONST. art. II.


26 Id.


29 The framers of the Constitution showed a great mistrust of congressional incumbents. For example, they prohibited incumbents from enacting additional qualifications for elected office. EDWARD H. CRANE & RODERICK PILON, THE POLITICS AND LAW OF TERM LIMITS 116 (1994).

Although presidential powers have increased over the life of the Constitution,\(^{31}\) the constitutional power to appropriate funds for the execution of portfolios remains primarily in Congress; appropriation bills must originate in the House and may be amended in the Senate.\(^{32}\) Congress can permanently impair an international portfolio by withholding funds. For example, Congress hastened the end of the Vietnam War by progressively eliminating the sources of funding.\(^{33}\) Furthermore, the President faces difficulty in administering portfolios if House and Senate leaders disagree with the President’s foreign policy. Even if the President’s own party controls both chambers of Congress, the President needs the cooperation of influential congressional leaders from both parties in order to change or readjust key international portfolios.

Exceptional international crises and national emergencies, such as the 9/11 terrorist attacks, empower portfolio managers to readjust existing portfolios and launch new ones. Since the President is usually the first to respond to exceptional international crises and domestic emergencies, the President gathers more than conventional powers to shape portfolios and bring a fundamental shift in foreign policy when faced with a national crisis.\(^{34}\) Clever Presidents may even exploit international crises to exert personal influence over war and peace portfolios. For example, President George W. Bush justified the 2003 invasion of Iraq by exaggerating national security threats and invoking frightening images of an “axis of evil” and “weapons of mass destruction” that could decimate American cities.\(^{35}\)

### B. General and Special Stakeholders

A state’s citizens are general stakeholders of international portfolios. Since few governments have their own sources of income, these citizen stakeholders pay taxes to fund war and peace decisions that portfolio managers make.\(^{36}\) The people as stakeholders benefit when portfolio managers make prudent portfolios for international trade, regional and global peace, and for cultivating friendly relations with other nations.\(^{37}\) Consequently, the people (as stakeholders) suffer economic losses and breaches of peace if portfolios generate threats to national economy or

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\(^{31}\) Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 653–54 (1952) (Jackson, J., concurring).

\(^{32}\) U.S. CONST. art. I, § 7, cl. 1.


\(^{34}\) OHARGULAM, supra note 21, at 73.


security, or undermine the nation’s goodwill. Theoretically, portfolio managers should serve general stakeholders, but that is often not the reality. Portfolio managers may structure portfolios to consolidate their hold on state power, claim international recognition, or simply satisfy their egos.\textsuperscript{38} They may compound foreign policy mistakes by making even more egregious errors. No state is immune from portfolio managers’ misadventures.

Therefore, the question is whether the people as general stakeholders have the institutional power to remove incompetent portfolio managers who jeopardize national security or otherwise mismanage international relations. The answer lies in the nation’s form of government. In the United States, the people have the constitutional right to remove unacceptable portfolio managers and elect new ones.\textsuperscript{39} Periodic elections and term limits restrain portfolio managers from launching or continuing unpopular portfolios. In nondemocratic Muslim states, however, the people have few effective means of holding portfolio managers accountable for their conduct regarding foreign policy.\textsuperscript{40} In hereditary forms of government, such as in Saudi Arabia, the citizens remain general stakeholders, but lack the institutional power to remove portfolio managers.\textsuperscript{41} The citizens always retain the ultimate power to change the form of government through a revolution, but the cost of revolution is frequently prohibitive.\textsuperscript{42}

Even under accountable democratic governments, the people as general stakeholders may fail to control harmful portfolios. Much like general investors in capital markets, the people lack the sophisticated knowledge of how foreign policy portfolios influence international relations.\textsuperscript{43} Engrossed with their daily lives, people in the United States and Muslim states rarely pay attention to or understand intricacies of foreign policy. The people may develop general ideas, mostly learned through the national media, about foreign policy issues facing the nation. In select cases, such as U.S. invasions of other countries, the people may eventually come to resent the decisions of portfolio managers.\textsuperscript{44} If an unpopular war lingers, the people might protest and demand that the war be ended. In less visible international matters, however, the people continue to defer to choices of portfolio managers. When

\textsuperscript{38} Id.

\textsuperscript{39} U.S. CONST. art. I, § 2 (requiring election of the members of the House of Representatives); U.S. CONST. amend. XVII (requiring direct election of Senators); U.S. CONST. art. II, § 1 (read with U.S. CONST. amend. XII).


\textsuperscript{43} But see EUGENE R. WITTКОFF, FACES OF INTERNATIONALISM: PUBLIC OPINION AND AMERICAN FOREIGN POLICY 134 (1990).

\textsuperscript{44} Id. at 187.
the people lack interest in or knowledge of foreign policy, portfolio managers are empowered to design and execute portfolios with fewer concerns of accountability. For instance, U.S. policies toward the Middle East may reflect the general lack of knowledge among Americans about Islam. When the people are disengaged or deliberately kept in the dark, portfolio managers are free to take bold and sometimes perilous risks that harm national interests.

A state’s international portfolios carry even more risk if and when special stakeholders undermine the interest of general stakeholders. It is common for select interest groups, rather than the general population, to become the presumed beneficiaries of international portfolios. In the United States, political action committees (“PACs”) and other special stakeholders wield tremendous influence over the construction and maintenance of select portfolios. First organized in the 1940s, PACs are actively engaged in U.S. foreign policy. PACs are powerful because they can mobilize campaign contributions to influence election outcomes. Congressional candidates who oppose PAC portfolio preferences face tremendous opposition through PAC-sponsored media advertisements and voter contacts. Portfolio managers, despite commanding formidable constitutional powers, are unable to modify select portfolios contrary to the wishes of PACs and other special stakeholders because of concerns about PAC reprisals.

Special stakeholders in the guise of vested interests also exist in most Muslim states. Families, businesses, and other undefined groups influence decisions of portfolio managers. In Saudi Arabia, for example, members of the royal family, tribal leaders, and Muslim clerics influence decisionmaking processes. Unlike the United States, however, most Muslim states rarely

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45 PEW FORUM ON RELIGION & PUB. LIFE, VIEWS OF RELIGIOUS SIMILARITIES AND DIFFERENCES: MUSLIMS WIDELY SEEN AS FACING DISCRIMINATION (Sept. 9, 2009), available at http://pewforum.org/uploadedfiles/Topics/Religious_Affiliation/Muslim/survey0909.pdf. In the aftermath of 9/11 attacks, Pew Research Center conducted a number of surveys. In February 2002, 47 percent of persons polled could correctly tell that Muslims use the name of Allah to refer to God. Id. In August 2009, a few months after Obama had assumed presidency, 53 percent of persons polled answered the same question correctly, showing that Americans were perhaps a little more informed about Islam and Muslims. Forty percent did not know or refused to answer the question. Id.

46 Id.


50 Id.

51 Id.

52 Id. at 373.

allow domestic PACs to influence foreign policy. Furthermore, nondemocratic forms of government discourage private surveillance of foreign affairs. The people as general stakeholders in nondemocratic Muslim states, however, deeply resent, and occasionally protest against, international portfolios that they believe do not serve national interests.54

Muslim militants are quickly emerging as a new breed of special stakeholders in many Muslim states.55 Muslim militants are forming Islamist political parties to gain power through elections.56 Some have formed resistance groups to employ violence against foreign targets.57 Some have joined the armed forces, state bureaucracy, and judiciary to influence the course of international portfolios.58 In Pakistan, Muslim militants are putting pressure on portfolio managers to resist U.S. demands to eliminate jihadi groups that fight in Afghanistan.59 In Egypt, the Muslim Brotherhood, an Islamic political party, was determined to fight and eventually defeat the pro-U.S. government.60 Similar Islamist movements are gaining momentum in Syria and Tunisia.61 The recent turmoil in Tunisia has toppled Ben Ali’s pro-Western government, paving the way for Islamic political parties to participate in general elections.62

In addition to PACs, epistemic groups, such as think tanks and universities, also play a significant role in the construction of U.S. portfolios. Epistemic groups are not stakeholders in the sense that people and PACs are. Yet their contributions are significant in analyzing complex international

54 Mohammad Ayoob, The GCC Shows Its True Colors, FOREIGN POL’Y (Mar. 16, 2011, 3:26 PM), http://mideast.foreignpolicy.com/posts/2011/03/16/the_gcc_shows_its_true_color. The real reason for establishing the Gulf Cooperation Council was not to defend against external enemies but to maintain authoritarian regimes. This shows that foreign policy portfolios, including defense pacts, may be used to suppress popular demands rather than serve the people as general stakeholders.


57 Id. at 45.

58 See generally BANU ELIGAR, THE MOBILIZATION OF POLITICAL ISLAM IN TURKEY (2010). Although the Turkish armed forces and the judiciary are highly secular, political Islam has begun to penetrate what has been a rigid secular nation. By contrast, in Pakistan, political Islam is a much more open and vibrant phenomenon.


62 Id.
relations and furnishing sophisticated strategies for protecting and promoting national interests. In the United States, over 40,000 public policy organizations of all stripes, conservative and liberal, Catholic and Jewish, provide knowledge-based policy proposals and critiques. Some, of course, are more influential than others. Hundreds provide foreign affairs analysis.

While public policy organizations in the United States compete for influence over portfolios, most Muslim states receive little support from domestic epistemic communities. In most Muslim states, domestic think tanks are either nonexistent or command few resources to develop credible expertise and advice. Likewise, local universities in Muslim states are devoted primarily to teaching and rarely encourage faculties to engage in foreign policy scholarship in an atmosphere of freedom of speech and expression. Autocratic governments fear losing power and therefore rarely encourage free and robust discourse among academics, suppressing academic research critical of domestic foreign policy.

Because Muslim populations as general stakeholders have little influence over their own portfolio managers, a huge gap exists between popular opinion and government conduct of foreign affairs. Many Muslim governments friendly to the United States protect and promote U.S. policies. U.S. portfolio managers, much like special stakeholders, prefer to deal with kings, military generals, and other strongmen who rule nondemocratic Muslim states. Muslim populations are systematically excluded in their home states from having a voice in the shaping of international portfolios. Muslim populations see the collusion between their leaders and U.S. portfolio managers. Powerless to reverse collusion, Muslim populations adopt anti-Americanism, and deride U.S. claims about fostering democracy in Muslim

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63 Universities across the country are home to public policy institutes. Institutes at Georgetown, Duke, George Mason, University of Texas, and University of Michigan, just to name a few, are multidisciplinary groups of academics who research and write on various issues that can ultimately influence various areas of foreign policy.


69 Id.

70 Id.
states.\textsuperscript{71} They cease to respect the United States as a principled superpower.\textsuperscript{72} Little effort is under way to educate American stakeholders that U.S. portfolio managers have antagonized Muslims all over the world.\textsuperscript{73} In the midst of propagandistic vilification of Muslims as heartless terrorists, American stakeholders are persuaded to face, fund, and fight wars of terrorism.\textsuperscript{74}

III. PORTFOLIO MANAGEMENT

Portfolio management is a utilitarian art to promote and preserve a legion of national and international objectives. Trade, national security, immigration, ideology, natural resources, and numerous other objectives inform the management of international portfolios. Nations use legal and illegal tools, including economic assistance, economic sanctions, invasions, and occupation, to advance portfolio objectives. Although international law and regulatory agencies restrict and outlaw certain portfolio objectives and tools, powerful nations can pursue many more objectives and employ many more tools than are available to weaker states.

For example, the U.S. summons its ideological allies to increase the impact and efficacy of its international portfolios. The North Atlantic Treaty Organization (“NATO”) represents a political and military alliance of twenty-eight states.\textsuperscript{75} NATO members pool their resources to adopt common international portfolios. Since 2001, following the terrorist attacks on the United States, NATO’s International Security Assistance Force (“NATO-ISAF”) has occupied Afghanistan to assist in defending it against local and foreign Muslim militants.\textsuperscript{76} Muslim states realize that nations unable to align their international portfolios with other nations frequently fail to compete effectively in international relations, remain vulnerable to the undue influence of other nations, and may even risk becoming targets of armed aggression. The Organization of the Islamic Conference (“OIC”) provides a platform for Muslim states to pool their economic and diplomatic resources to conduct international portfolios. However, the OIC has not yet succeeded in forging functional unity and coordination among member states.

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\textsuperscript{71} EDWARD P. DJEREJIAN, \textit{CHANGING MINDS, WINNING PEACE: A NEW STRATEGIC DIRECTION FOR U.S. PUBLIC DIPLOMACY IN THE ARAB AND MUSLIM WORLD} 15 (2003). The report was first submitted to the Committee on Appropriations of the U.S. House of Representatives on October 1, 2003. \textit{Id.}
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\textsuperscript{72} \textit{Id.}
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\textsuperscript{73} \textit{Id.} at 16–17.
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\textsuperscript{74} \textit{Id.} at 6.
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\textsuperscript{75} NATO Member Countries, NATO, http://www.nato.int/cps/en/natolive/nato_countries.htm (last updated Mar. 10, 2009, 4:30 PM).
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A. Portfolio Objectives

The following discussion examines five portfolio objectives and complications that shape and influence U.S. relations with Muslim states. First, U.S. portfolio managers make sophisticated distinctions between various Muslim states in designing international portfolios. Rightfully, they do not treat Muslim states as a monolithic entity. They consider a host of geo-economic, geo-military, and geo-strategic elements while designing and administering Muslim states' portfolios. Some U.S. portfolios are thematic and issue-oriented, while others are nation-specific or region-specific. The War on Terrorism serves as an example of a thematic portfolio that touches almost all Muslim states.

On the other hand, country-specific portfolios tend to be more complicated. For example, consider U.S. portfolios for Iraq under Saddam Hussein and for Saudi Arabia. Both Muslim nations shunned democracy and both possessed huge oil resources that the United States desired. For decades, the U.S. portfolio for Saudi Arabia has preserved a mutually beneficial strategic relationship. Because of the benefits, U.S. portfolio managers hushed up the fact that many terrorists involved in the 9/11 attacks were Saudi nationals. In contrast, the U.S. portfolio for Iraq under Saddam Hussein shifted dramatically from collaboration to outright invasion. Initially, U.S. portfolio managers supported Saddam Hussein in his war with Iran. Later, however, they adopted a highly punitive Iraqi portfolio to contain and overthrow the Hussein regime. Likewise, the U.S. portfolios for Egypt, Jordan, Morocco, and Turkey have been markedly supportive and friendly as compared to those for Libya, Syria, and Iran. Even thematic portfolios, such as the one for the War on Terrorism, rarely treat the entire Muslim world as a single unit. For efficacy purposes, thematic portfolios are adjusted and fine-tuned for each particular Muslim state.

Second, international portfolios protect and promote economic and homeland security interests. However, the logic of protecting national interests is seldom linear, since various portfolios pursuing diverse national interests may not be mutually supportive. For example, the U.S. portfolio for Iran is designed to deprive Iran from having nuclear weapons that pose a security threat to the U.S. and its allies in the Middle East, including the Gulf States. The United States courts the Gulf States for oil and military strategic interests. Ironically, however, as the Palestinian-Israeli conflict fester, the highly supportive U.S. portfolio for Israel sows resentment in the same Gulf States that support the U.S. portfolio for Iran. Thus, the combined effect of the Iranian and Israeli portfolios distorts American interests in the Gulf States.

Third, international portfolios favorable to one nation may generate unintended hostility and ill-will among other nations. Most portfolios are interlocked as they affect each other. Some are mutually supportive while some are mutually adverse. For example, the U.S. portfolio favoring Israel in the Middle East infuriates the regional Muslim states. For the most part,
U.S. portfolios are carefully planned and periodically readjusted to maximize economic benefits and to minimize risks to homeland security and national goodwill. In supporting Israeli occupation, however, U.S. portfolio managers recognize the negative fallout of the Israeli occupation of Palestinian lands in the Middle East and the larger Muslim world. Furthermore, U.S. portfolio managers tolerate Israeli nuclear weapons but campaign against nuclear proliferation in the Middle East. Muslims in the Middle East interpret these pro-Israel portfolios as anti-Islamic.

There is a growing perception among Muslims worldwide that U.S. portfolio managers mostly opt to support a non-Muslim state or entity in conflict with a Muslim state or entity: take the rivalry between India and Pakistan, for example. The United States faces difficulty in constructing

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77 G.W. BUSH, THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA 1 (2009) (“This is also a time of opportunity for America. We will work to translate this moment of influence into decades of peace, prosperity, and liberty.”).

78 M. Khan, Prospects for Muslim Democracy: The Role of US Policy, 10 MIDDLE E. POL’Y 79, 88 (2003) (“A willingness to pressure Israel along with Palestinian leaders will go a long way in improving America’s credit rating in the Middle East.”).

79 SHAI FELDMAN, NUCLEAR WEAPONS AND ARMS CONTROL IN THE MIDDLE EAST 131–132 (1997) (“In light of the emphasis placed by the Ford and Carter administration on efforts to arrest nuclear proliferation, Sadat may have judged that efforts to develop a nuclear cap would hinder improvements in U.S. Egyptian relations.”).

80 Khan, supra note 78, at 8.

A recent Pew survey found that people from all surveyed countries except the United States believed that the United States was too pro-Israel . . . . If the United States fails to show the same urgency and commitment to realizing a Palestinian state and rebuilding Iraq that it showed in attacking Iraq, U.S.-led democratization in the Middle East will not materialize. Many Muslims fear that the war on terror is actually a war on Islam.

Id.


There have also been specific complaints that the US favors Israel over the Palestinians and the Arab world as a whole, that the US exploits the Middle East for its oil and that it hypocritically supports non-democratic governments that accommodate its interests. These attitudes persist. But now there is also a new feeling about the US that has emerged in the wake of 9-11. This is not so much an intensification of negative feelings toward the US as much as a new perception of American intentions. There now seems to be a perception that the US has entered into a war against Islam itself.

Id.

82 ŠUMIT GANGULY, CONFLICT UNENDING: INDIA PAKISTAN TENSIONS SINCE 1947 1 (2001). (“[S]ince their emergence as independent states from the detritus of the British Indian empire, India and Pakistan have gone to war four times.”).
balanced portfolios between these two South Asian nations.\textsuperscript{83} India is a fast-emerging global economy.\textsuperscript{84} The United States has a profound national interest in constructing an Indian portfolio that would promote mutual trade.\textsuperscript{85} Nuclear India is also an important counterweight in balancing, and perhaps containing, the Chinese influence in the region.\textsuperscript{86} U.S. economic and military ties with India frustrate Pakistan, which has been a U.S. ally ever since its birth in 1947.\textsuperscript{87} The U.S. invasion of Afghanistan and the rise of Islamist militancy in the region have dramatically increased Pakistan's geostrategic bearing on U.S. security interests.\textsuperscript{88} Pakistan possesses nuclear devices and has cultivated close relations with China.\textsuperscript{89} The United States cannot afford to lose Pakistan, either to militants or to China.\textsuperscript{90} The United States is therefore hard-pressed to balance its portfolios in South Asia.\textsuperscript{91} Yet Pakistanis believe that the United States is pro-India, because Pakistan is a Muslim state.\textsuperscript{92} They also believe that the United States does nothing to support the self-determination movement in the Indian-held Muslim Kashmir but actively supports such movements to break up Muslim states, such as Indonesia and Sudan.\textsuperscript{93}

These and other imbalances in U.S. portfolios incite Muslim fury around the world.\textsuperscript{94} Ignoring this fury and seething ill-will, U.S. portfolio managers have interpreted the 9/11 attacks as unjustified aggression that has little to

\textsuperscript{83} See, e.g., Strobe Talbott, Dealing with the Bomb in South Asia, 78 FOREIGN AFF. 110, 111 (1999).

\textsuperscript{84} KAUSHIK BASU, INDIA'S EMERGING ECONOMY: PERFORMANCE AND PROSPECTS IN THE 1990S AND BEYOND 94 (2004).

\textsuperscript{85} Condoleezza Rice, Promoting the National Interest, 79 FOREIGN AFF. 45, 50 (2000) (“[E]xpand[ing] free trade [is a] decisive tool[] in shaping international policies. [It] permit[s] us to reach out to states as varied as South Africa and India.”).

\textsuperscript{86} C. Raja Mohan, India and the Balance of Power, 85 FOREIGN AFF. 17, 22 (2006).

\textsuperscript{87} Talbott, supra note 83, at 111 (“For decades, Pakistan had been a U.S. ally on the frontline of the struggle against the Soviets.”).


\textsuperscript{89} Id. at 39.

\textsuperscript{90} Talbott, supra note 83.

\textsuperscript{91} Id. at 110–11.

\textsuperscript{92} B.R. Rubin & A. Rashid, From Great Game to Grand Bargain, 87 FOREIGN AFF. 30, 36 (2008) (“Many in Pakistan believe that the United States has deceived Pakistan into conniving with Washington to bring about its own destruction: India and U.S.-supported Afghanistan will form a pincer around Pakistan to dismember the world’s only Muslim nuclear power.”).

\textsuperscript{93} Id.

\textsuperscript{94} Khan, supra note 78, at 87 (“As long as fear of American aggression and suspicion about who is shaping U.S. policies and reservations about what motivates U.S. policy continue, there will be animosity, hostility and resistance to American efforts in the region.”).
do with these imbalances.  

For decades before the attacks, however, U.S. portfolio managers have been aware of profound frustration over U.S. foreign policy. Yet they continue to ignore or oppose Muslim interests. In the Middle East, U.S. portfolio managers have endorsed the Israeli occupation of Gaza and the West Bank, vetoed Security Council resolutions that would give relief to the Palestinians, portrayed the Palestinian struggle as terrorism, and refused to openly and honestly recognize that the Palestinians are victims of occupation, illegal settlements, house demolitions, and economic strangulation. U.S. portfolio managers continue to defiantly overlook a stark writing on the wall that Muslims across the world question the United States as a just superpower or honest mediator.

Fourth, international portfolios may engage in ideological competition. The United States, a highly regarded liberal democracy, longs for Muslim states to adopt the American notions of liberty and free markets. This longing, at times anchored in American exceptionalism, draws strength from the United States’ positive self-image as a righteous nation. Since the 9/11 attacks, U.S. portfolio managers have expressed the wish to bring democracy and secularism to Muslim states. This ideological portfolio, in part, aims at weakening Islamic political parties that support the call for jihad against

95 Id. at 80 (“For decades, corrupt regimes with direct or indirect U.S. involvement worked to undermine legitimate aspirations of Muslims for freedom, growth and participation in governance.”).

96 See, e.g., id.

The US has had an 80-year relationship with the Kingdom of Saudi Arabia. In these 80 years the American government had done very little to actively improve the conditions (human and civil rights) in which the people of Saudi Arabia live. The Saudis were deprived from the possibilities of intellectual, cultural and political growth . . . . Even today there is very little pressure on Saudi Arabia to institute democratic reforms.

Id.

97 Id. at 22 (“U.S. credibility is continuously on the decline, as are general perceptions about the United States itself.”).

98 Andrew Harrington, Ethnicity, Violence, & Land and Property Disputes in Timor-Leste, E. Timor L. J. (Feb. 1, 2007), available at http://www.eastimorlawjournal.org/ARTICLES/2007/ethnicity_violence_land_property_disputes_timorese_harrington.html (“Timor-Leste (formerly East Timor) is the world’s newest democratic country. After nearly 400 years of Portuguese colonial rule and 24 years of Indonesian military occupation, independence was formally gained in May of 2002.”).


foreign domination, occupation, and invasions of Muslim lands.\textsuperscript{102} Consequently, U.S. ideology rejects political Islam.\textsuperscript{103} The U.S. portfolio for Palestine suppresses Hamas in Gaza, even though Hamas was democratically elected.\textsuperscript{104} Likewise, U.S. portfolios support Middle Eastern sham democracies, particularly if the rulers ban Islamist parties that wish to participate in elections to gain power.\textsuperscript{105} Muslim populations believe that the U.S. ideological portfolio is designed to suppress the resurgence of Islam.\textsuperscript{106} Islamic political parties, though suppressed by pro-U.S. rulers, continue to gain popular support and are unlikely to fade away in the near future.\textsuperscript{107}

U.S. portfolio managers deny ideological warfare with Islam. However, a global competition between American and Islamic values appears to be inevitable. Historically, Islam has transformed numerous civilizations, including those of Mesopotamia, Egypt, India, and Persia.\textsuperscript{108} Most Muslim states, proud of a glorious Islamic civilization constructed centuries before the U.S. liberal democracy\textsuperscript{109} appeared on the world scene, define their primary identity through Islam and not secularism, through submission to divine texts rather than man-made constitutions.\textsuperscript{110} Millions of Muslims now live in the United States and hundreds of Americans are converting to Islam, thus opening avenues for vigorous connections.\textsuperscript{111} The United States has also transformed many parts of the world, notably Western Europe and Japan. Furthermore, the United States defeated Nazism and Soviet communism.\textsuperscript{112}


\textsuperscript{104} Noam Chomsky, Guillotining Gaza, CHOMSKY.INFO (July 30, 2007), http://www.chomsky.info/articles/20070730.htm.


The ideological defeat of Soviet communism and the consequent establishment of free markets throughout the world is perhaps the most significant American triumph. In view of their respective contributions to human civilization, American and Islamic values are bound to compete with each other for influence. This competition itself poses no harm to the United States or Muslim states. Human civilization cannot advance without ideological competition. However, U.S. and Muslim portfolio managers must refrain from turning peaceful ideological competition into a blood-spattered crusade.

Fifth, international portfolios establish national goodwill. Nations use their goodwill in international relations markets to strike beneficial bargains and seek competitive advantage. A state’s goodwill is shaped by what the nation does, what it says, and what other nations and international organizations say about it. The peoples of the world also shape the reputation of nations. A state’s poor reputation diminishes its goodwill and weighs down the success of its international portfolios. Superpowers such as the United States, which are heavily invested in international relations, are more heavily exposed to critical assessments, and carry a bigger stake in the goodwill market. A state’s goodwill, however, is not a fixed asset that it can take for granted. Goodwill is an asset whose value fluctuates with the failure and success of a state’s international portfolios. U.S. goodwill, for example, declined under the Bush Administration. The invasion of Iraq, the institution of an inhumane prison at Guantanamo, and the commission of torture at Abu Ghraib severely damaged the reputation of the United States as a morally upright nation. U.S. goodwill in the world increased when Obama was elected as President. A state’s goodwill, even under respected portfolio managers, may vary in different parts of the world. While U.S. goodwill remains high in many parts of the world, many Muslims no longer believe that the Obama Administration is friendly to Muslim causes. The

113 Id.
114 The peoples of the world, who have been a non-factor under classical international law, are increasingly expressing their views on international issues through demonstrations, blogging, and the word of mouth. Nations cannot avoid having a global reputation. Nations have begun to care about this reputational asset, just as professionals care about their personal reputation in the community. See Jian Wang, Managing National Reputation & International Relations in the Global Era, 32 PUB REL RVR. 91 (2006)
lingering Middle East conflict, the escalation of war in Afghanistan, and drone attacks on Pakistan disappoint many Muslims throughout the world. Consequently, the temporary rise in the U.S. goodwill in the Muslim world appears to be losing its upward momentum.

**B. Portfolio Tools**

Tools have been central in the formation of human civilization. Groups with superior tools regularly outsmart their competitors; this reality is no different in international relations. Resourceful states develop tools to protect and promote portfolio objectives. Weaker states do not. Economic benefits and economic sanctions are the most preferred tools that resourceful nations routinely use to administer international portfolios. These economic tools are unavailable to poor nations. Even though the World Trade Organization regulates international trade, individual nations continue to enjoy unilateral economic tools to influence international portfolios. Given the size of U.S. capital and consumer markets, U.S. portfolio managers command a cache of tools unavailable to most developing Muslim states. Likewise, they may unilaterally allow or prohibit the sale of machinery, technology, aircraft parts, and numerous other types of hardware and software that a target Muslim state needs to develop and maintain its economy. Over the decades, U.S. portfolio managers have employed various economic tools to both entice and compel Muslim states to modify their domestic and international behavior in support of U.S. geo-economic and geo-military objectives.

In addition to unilateral tools, resourceful nations can employ multilateral economic tools in support of their international portfolios. The United States commands substantial influence over international institutions, notably the World Bank and the International Monetary

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119 See SAM LILLEY, MEN, MACHINES AND HISTORY (1948).


122 Askari, * supra* note 120.

123 Id.

124 Id.

125 Id.

126 Id.

127 Askari, * supra* note 120.
It is also a permanent member of the U.N. Security Council, which is empowered to impose economic sanctions. U.S. portfolio managers can mobilize these institutional tools to entice or compel Muslim states to align their behavior with U.S. portfolio objectives. U.S. portfolio managers also use their control over the World Bank and the International Monetary Fund, to make strategic decisions to allow or to block highly needed international loans to targeted Muslim states. Furthermore, since the United States wields veto power in the U.N. Security Council, portfolio managers can block punitive resolutions against select allies. U.S. portfolio managers have consistently prevented the Security Council from censuring Israel even for its most egregious violations of international law. Conversely, U.S. portfolio managers lead the charge in persuading the Security Council to impose economic sanctions against targeted Muslim states, such as Iran.

Portfolio managers of resourceful nations may use illegal tools to administer international portfolios, an option unavailable to weak nations. After the 9/11 attacks, U.S. portfolio managers pursuing the war on terror discarded the distinction between lawful and unlawful tools. Invoking the right of self-defense, they disregarded international law, including the law of proportionality and jus cogens. They permitted the abduction of Muslim militants from all over the world, sometimes in violation of extradition treaties, and also permitted indefinite detentions in secret C.I.A. prisons without charges or recourse to judicial tribunals. The managers also permitted cruel and degrading treatment of Muslim inmates and innovative torture methods designed to offend the Islamic faith, including desecration of the Qur'an. Finally, they allowed the disproportionate use of force in Afghanistan and extrajudicial killings of Muslim militants and innocent civilians in Pakistan’s tribal areas. These and many other illegal tools have been used to conduct an asymmetrical war that has yet to be concluded.

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129 U.N. Charter art. 41.
By contrast, Muslim states are frequently unable to use effective tools to protect and promote their international portfolios. Arab countries have been unable to obtain a Security Council resolution to protect the survival rights of Palestinians. Iraq was unable to stop the illegal U.S. invasion, and Turkey has failed to obtain relief for the murder of its nationals on the Turkish ship that challenged the Israeli blockade of Gaza. Pakistan has no effective tools to persuade the United States to stop drone attacks in the tribal areas. Such portfolio helplessness in the Muslim world, with no effective access to international institutions and agencies, nurtures Islamic militancy.

C. Regulatory Agencies

Numerous international institutions and agencies examine the legality of the objectives and prosecuting tools of international portfolios. The purpose of such oversight is to minimize threats to international order and security, facilitate cooperation among nations for the resolution of common problems, and prevent and resolve disputes arising from conflicting international portfolios. The United Nations, for example, regulates international portfolios by requiring member states to “refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state.” The International Atomic Energy Agency furnishes regulations “to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world.” Other international agencies regulate free and fair international trade, health, food and agriculture, intellectual property, and numerous other international portfolios. International regulatory agencies establish parameters within which nations can pursue their respective portfolios in accordance with international law. Additionally, international dispute resolution bodies, including the International Court of Justice, serve to resolve conflicts arising out of competing or irreconcilable portfolios. In the absence of effective regulatory agencies, nations’ pursuit of illegal, unfair, aggressive, and predatory portfolios weakens international law.

137 U.N. Charter art. 2, para. 4.
Contemporary international law prohibits nations from pursuing portfolios with the threat or use of force. Furthermore, the emerging law of human rights places extensive constraints on arbitrary execution of portfolios. Nations, including superpowers, are no longer free to advance portfolios in complete disregard of human rights. The people of the world, as the owners of human rights, are assuming a more assertive role in voicing critical opinions over violent and unjust international portfolios. Despite these unprecedented developments, the world remains divided, almost primitively, between strong and weak nations. Due to weak and just regulatory agencies, almost all nations engage in a combination of legal and illegal behaviors to protect and promote their international portfolios. The international legal system, however, is tilted against weak nations. Strong nations violate human rights and invent spurious legal pretexts to use force. In wars, they ignore humanitarian law designed to restrain nations even during permissible wars from cruelty and brutality.

Despite congenital unfairness of contemporary international law, most Muslim states actively participate in the formation and maintenance of regulatory agencies. However, they also believe that strong nations disregard regulatory agencies and engage in unlawful behavior with impunity, but weak nations are held accountable under stringent standards of international law. For example, the U.N. Security Council is specifically empowered to maintain “international peace and security.” The Security Council may use economic sanctions and collective armed force to deter...
nations from pursuing aggressive portfolios that threaten international peace and security. The permanent members of the Security Council, however, are immune from economic sanctions and collective military action. They can also use veto power to protect their allies. In the Muslim world, the Security Council is seen as an unjust regulatory agency that punishes Muslim states, such as Iraq, Sudan, and Iran, but does little to restrain non-Muslim states, such as Israel or India, for gross human rights violations in occupied Muslim territories. Muslim states will remain skeptical of the rule of law, and Muslim militants will correspondingly continue to undermine international peace and security, if regulatory agencies fail to assure that all, and not just some, international portfolios comply with international law.

IV. VESTED PORTFOLIOS

This section examines vested international portfolios that acquire a life of their own and cannot be easily discarded or replaced. There are three distinct types of vested portfolios: people’s portfolios, select portfolios, and management portfolios. First, the people’s portfolios are the most durable and hard to change. They are vested in the national psyche or society’s shared aspirations. They are intergenerational and last for decades. No portfolio manager undertakes to change or discard the people’s portfolios, which are also immune from the influence of special stakeholders. Second, select portfolios are vested in the interests of special stakeholders. Select portfolios survive as long as special stakeholders command influence over portfolio managers. Select portfolios, however, are vulnerable to the will of the people who may demand that a select portfolio be discarded or replaced. Finally, management portfolios are vested in the tenure of portfolio managers. They survive as long as portfolio managers stay in power. However, management portfolios may or may not be easy to change or discard. As explained below, portfolio managers may use several techniques to increase the longevity of management portfolios.

149 Id. arts. 41–42.
A. People’s Portfolios

People’s portfolios are anchored by their passion to obtain specific foreign policy objectives. Views and prejudices may influence portfolio choices. For example, the people’s desire to end an ongoing war, such as the Vietnam War in the 1970s, is the most spectacular example of the passionate force of the people’s portfolio. The people may initially submit to the decision of portfolio managers to commit the nation to a particular war, but if the war fails to accomplish its objective or otherwise seems costly, unwise, or unjust, the people begin to oppose the continuation of war. If portfolio managers resist the call to end the war, resistance to war turns into street protests. In well-entrenched democracies, such as the United States, when the people forcefully assert their popular sovereignty against a war, portfolio managers are bound to lose.

People’s portfolios are not limited to opposing wars. The people may support and oppose varied international portfolios. In most cases, however, the people’s portfolios are related to national security. In Iran, the people support the government’s determination to develop nuclear energy, even though ordinary Iranians suffer the hardships of economic sanctions. In Pakistan, the people are opposed to U.S. drone attacks in tribal areas. However, it is unclear whether the people’s opposition to drone attacks will turn into massive street protests, which would force the government to plead for a change in U.S. policy. Yet the opposition is gaining momentum. In pro-U.S. Muslim states, such as Egypt and Jordan, the people resent U.S. portfolios with respect to the Middle East, and the rising anti-Americanism reflects people’s frustration and rage. Islamic political parties that oppose U.S. portfolios are likely to win more and more popular support, thus changing the political landscape of the Middle East.

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152 In March 2005, 54 percent of Americans had a favorable view of Muslims, while 19 percent had a very unfavorable view of Muslims. The PEW FORUM ON RELIGION & PUBLIC, supra note 45. In August 2009, 58 percent of Americans had a favorable view of Muslims while 12 percent had an unfavorable view. Id. In August 2009, 58 percent of Americans held the impression that there was “a lot of discrimination” against Muslims; 13 percent did not know or refused to answer the question. Id.


154 Id.


157 Id.


B. Select Portfolios

Select portfolios originate and receive support from special stakeholders.\textsuperscript{160} Select portfolios may be country-specific or theme-specific. Special stakeholders may pressure portfolio managers for free trade, restricted immigration, restraining outsourcing of jobs, humanitarian intervention to stop gross human rights violations, and support or opposition for a foreign nation.\textsuperscript{161} The general stakeholders, especially voters in a democratic system, retain the power to pressure portfolio managers to discard select portfolios. However, special stakeholders may employ resources, including propaganda, to build popular support for select portfolios. In non-democratic nations, special stakeholders may persuade or pressure portfolio managers to pursue select portfolios.

The U.S. portfolio for Israel ("Israeli portfolio") is a prototypical select portfolio.\textsuperscript{162} Over the past few decades, Republican and Democratic portfolio managers have been committed to safeguarding the Israeli portfolio.\textsuperscript{163} A significant number of members in Congress, mostly incumbents, and many in leadership positions, safeguard the Israeli portfolio.\textsuperscript{164} The portfolio requires annual allocation of huge sums of money to Israel.\textsuperscript{165} Furthermore, Congress has passed legislation to characterize militant groups fighting the occupation, such as Hamas, as terrorists. Thus, Congress undermined the Palestinian people’s right to armed struggle against occupation, a right that seems to be losing ground in the wake of asymmetrical warfare. Each year, the United States votes against U.N. General Assembly resolutions that are overwhelmingly passed to reaffirm the rights of Palestinians. In December 2009, the Obama Administration voted against the U.N. resolution on the permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, which the U.N. adopted with a recorded vote of 165 in favor to eight against.\textsuperscript{166} The United States vetoed resolutions

\textsuperscript{160} Here, a “select portfolio” means a foreign policy agenda targeting a specific country or promoting a specific national or international objective.

\textsuperscript{161} JAMES M. MCCORMICK, AMERICAN FOREIGN POLICY & PROCESS 491–496 (5th ed., 2010).

\textsuperscript{162} See generally JOHN J. MEARSHEIMER & STEPHEN M. WALT, THE ISRAELI LOBBY AND U.S. FOREIGN POLICY (2007). The authors describe how some U.S. journals refused to publish their research. Id. at vii–viii.

\textsuperscript{163} John Mearsheimer & Stephen Walt, The Israel Lobby, 28 LONDON REV. OF BOOKS 6 (Mar. 2006).


\textsuperscript{165} MCCORMICK, supra note 161, at 515.

the Security Council drafted to condemn Israel’s violations of international law.167

Special stakeholders, including the American Israel Public Affairs Committee (“AIPAC”), are vigilant that the U.S. commitment to the Israeli portfolio is neither undermined nor diminished. Any member of Congress who expresses reservations about the Israeli portfolio faces strong opposition from special stakeholders favoring Israel. In 2002 and 2006, Rep. Cynthia McKinney of Georgia, a vocal proponent for Palestinian rights in the occupied territories, lost her House seat because special stakeholders actively opposed her candidacy.168 To Protect Our Heritage is another PAC devoted to supporting and helping to elect “candidates who support a strong U.S./Israel relationship.”169

Select portfolios do not need to favor select nations. They can be punitive as well. Special stakeholders who favor Israel also oppose Muslim states that are adverse to Israeli policies in the Middle East. Iraq under Saddam Hussein, Syria, and Iran have been strong critics of Israeli occupation.170 Special stakeholders made a concerted effort to initiate portfolios that punish these nations.171 For example, they successfully pressured U.S. portfolio managers to initiate punitive portfolios against these states, which took the form of unilateral economic and trade sanctions.172 Thus, they have diplomatically isolated them in the international community.

Punitive portfolios may also involve a threat or use of force in attempts to modify the behavior of select states.173 Over the decades, U.S. portfolio managers have launched punitive portfolios to support opposition groups within select Muslim states, foster domestic unrest, overthrow governments,

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168 Mearsheimer & Walt, supra note 162, at 157.


171 Mearsheimer & Walt, supra note 162.


and in some cases, invade and overthrow governments through military force.¹⁷⁴

One example is the punitive select portfolio targeting Iran. Under pressure from special stakeholders and anti-Islamic think tanks, U.S. presidents have imposed a highly coercive regime of trade and economic sanctions against Islamic Iran. Soon after the Iranian revolution, President Carter blocked all properties and interests of the government of Iran and its instrumentalities.¹⁷⁵ In 1985, President Reagan relied on the International Security and Development Cooperation Act ("ISDCA") to issue an Executive Order that imposed an import embargo on goods and services originating in Iran.¹⁷⁶ In 1995, President Clinton relied on the International Emergency Economic Powers Act ("IEEPA") and ISDCA to issue an Executive Order to further tighten economic sanctions.¹⁷⁷ He also issued an Executive Order to prohibit U.S. involvement with petroleum development in Iran.¹⁷⁸ In 1997, President Clinton issued an Executive Order to clarify the scope of economic sanctions prohibiting U.S. citizens, regardless of location, from engaging in trade and investment activities with Iran.¹⁷⁹ However, there is no ban on importing information or informational materials from Iran.¹⁸⁰

Many Muslims, living inside and outside the United States, have reached the unfortunate conclusion that the U.S. foreign policy in the Middle East and elsewhere is anti-Islamic.¹⁸¹ As Israel’s principal ally, the United States is perceived as a biased party in the Israeli-Palestinian conflict. After the

¹⁷⁴ Alleged Assassination Plots Involving Foreign Leaders: An Interim Report of the Select Committee to Study Governmental Operations With Respect To Intelligence Activities (Church Committee), S. REP. No. 94-465, at 1 (1975). This Congressional report lists CIA attempts to kill foreign leaders. Id. The War of Terrorism has re-empowered the CIA to engage in extensive covert operations. Id.


¹⁸⁰ Information and informational materials include films, posters, phonograph records, photographs, artworks, and newswire feeds. See 50 U.S.C. § 1702(b)(3) (2001).

9/11 attacks, the Bush Administration abandoned the façade of neutrality and sided with Israel\(^\text{182}\) in delegitimizing the Palestinian right to self-determination. Although the Obama Administration started out well in reestablishing some semblance of neutrality, and the appointment of a special envoy was well intentioned, so far the Middle East peace process has made little progress. The Obama Administration understands that sending a genuine message to the Muslim world will require much effort and that the United States could act as an honest broker to bring durable peace between Israelis and Palestinians. However, until the reestablishment of genuine neutrality in the Middle East and elsewhere, the American goodwill will continue to lose value among Muslim communities. Special stakeholders are unlikely to let President Obama make any changes to the favored Israeli portfolio.

**C. Management Portfolios**

The U.S. President inherits a set of management portfolios\(^\text{183}\) that prior administrations have already launched. Some management portfolios have been fortified with federal statutes, others with executive orders. Statutory fortification of portfolios obligates new portfolio managers to conduct foreign policy in compliance with laws. Statutory portfolios limit the options of future presidents to dramatically change foreign policy. The new President must enforce statutory portfolios even if they conflict with his campaign promises. Management portfolios fortified with executive orders are theoretically easy to alter or discard altogether, since the President alone can modify or repeal such prior executive portfolios. However, politics may dictate the continuation of prior executive portfolios.

1. **Statutory Portfolios**

U.S. statutory portfolios cover a wide range of international matters pertaining to diverse regions of the world. There are far more statutory portfolios dealing with Muslim states than any other part of the world. Statutory portfolios apply not only to Muslim states, they also apply to Muslim organizations and Muslim individuals.\(^\text{184}\) Statutory portfolios target


\(^{183}\) The term “management portfolios” means parts of foreign policy that the President launches under his constitutional authority, without the approval of Congress. Management portfolios may or may not be reduced into Executive Orders. “Statutory portfolios” means parts of foreign policy that Congress legislates in the form of federal statutes.

\(^{184}\) The U.S. Department of the Treasury maintains a list of individuals and companies, called “specially designated nationals” (“SDN”), whose assets are blocked and U.S. nationals are prohibited from dealing with them. See *Specially Designed Nationals List (SDN)*, U.S. DEP’T OF THE TREASURY, http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx (last visited Mar. 29, 2011).
Muslim states deemed hostile to U.S. interests, such as Iran and Syria.\footnote{Several federal statutes target Iran and Syria. See, e.g., Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), 8 U.S.C. § 1189, 18 U.S.C. § 2339B (1996).} They also target long-term allies, such as Pakistan and Saudi Arabia.\footnote{In the 1980s, for example, members of Congress opposed selling AWACS aircrafts to Saudi Arabia. See 127 Cong. Rec. S12,452 (daily ed. Oct. 28, 1981). The sale, however, was eventually approved.} In the 1990s, the United States denied Pakistan the delivery of F-16 fighter jets under the Pressler Amendment,\footnote{Farrzana Shaikh, Pakistan’s Nuclear Bomb: Beyond the Non-Proliferation Regime, 78 Int’l Aff. 29, 34–35 (2002); see also Todd David Peterson, Protecting the Appropriation Powers: Why Should Congress Care About Settlements at the Department of Justice, 2009 BYU L. Rev. 327, 367 (2009).} which Congress adopted in 1985. Congress designed the Pressler Amendment “to reduce significantly the risk that Pakistan will possess a nuclear explosive device.”\footnote{Foreign Assistance Act of 1961, Pub. L. No. 87-195 n. 960 § 620E(e) (1985).} Ironically, the Pressler Amendment was enacted in the midst of the Soviet invasion of Afghanistan at a time when Pakistan was cooperating with the U.S. efforts to arm and train the Afghan resistance forces, known as the mujahedin.\footnote{Shaikh, supra note 187, at 34–35.} Statutory portfolios punishing Muslim states stretch from trade sanctions to divestments to downright subversion of Muslim governments.

The President can request that Congress modify or repeal a certain statutory portfolio. But such requests rarely materialize, because repealing a federal statute requires a new political consensus in both chambers of Congress.\footnote{Political inertia often makes it difficult to repeal a federal statute. Professor Stephen McAllister makes this point in the context of regulations under the Commerce Clause of the Constitution. See Stephen McAllister, Is There a Judiciously Enforceable Limit to Congressional Power Under the Commerce Clause, 44 U. Kan. L. Rev. 217, 233 (1996).} Consequently, in most cases, the President must operate within the confines of inherited portfolios. Statutory constraints on the President assure the continuation of portfolio choices made in earlier presidencies. Though the President might be able to make small changes within statutory portfolios, even if the statute does not empower the President with explicit waivers, statutory constraints nonetheless act as barriers in changing a portfolio contrary to the congressional will.

The President has more control over proposed portfolio bills than he does over statutory portfolios. The Constitution empowers the President to veto legislation.\footnote{U.S. Const. art. 1, §7, cl. 2} The power to veto portfolio bills is even more constitutionally legitimate since the President has numerous enumerated foreign affairs powers, including the power to receive and appoint ambassadors, the power to recognize states and governments, and the powers vested in offices of the Chief Executive and the Commander-in-Chief.\footnote{U.S. Const. art. 2, §2} The exercise of veto,
however, is rarely a legal or constitutional conundrum. Most frequently, Presidents exercise veto for political and policy reasons. The exercise of veto is no less political with respect to portfolio bills. The President is more likely to veto a portfolio bill sponsored by the opposition party than the one sponsored by his own party. These political calculations, however, do not apply to prior portfolios. The President commands no veto power to repeal a prior statutory portfolio.

President Obama inherited a set of anti-Muslim statutory portfolios from the prior administration. In 2006, President Bush signed the Iran Freedom Support Act. The law imposes mandatory sanctions on persons and entities that assist Iran in acquiring weapons of mass destruction or even conventional weapons. On July 1, 2010, President Obama signed the Comprehensive Iran Sanctions, Accountability, and Divestment Act, which expands sanctions against Iran. This signature on a new statutory portfolio was a great policy reversal for President Obama, who had envisioned during his presidential campaign and even early in his term that U.S.-Iranian relations need not remain trapped in the past. Obama, despite being a Senator, could not foresee the opposition he, as the President, would face in reversing the momentum of the anti-Iran policy deeply embedded in the halls of Congress.

In a broad sense, statutory portfolios are of two distinct kinds: empowerment and directive. First, empowerment statutory portfolios authorize the President to declare the existence of international events that would trigger legal consequences. Second, directive portfolios direct the President to conduct designated international matters in the statutorily prescribed manner. Directive statutory portfolios frequently list the nations receiving either favorable or punitive measures. The IEEPA empowers the President to deal with unusual and extraordinary threats to national security, foreign policy, and the economy. In the event that the President declares an emergency, this act provides that the President may impose a wide set of credit, banking, currency, and property sanctions against foreign

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194 The President, however, may veto a bill that proposes to repeal a prior statutory portfolio. Repealing a prior statutory portfolio is no different from repealing a prior federal statute, which requires passing the bill through both Houses of Congress and the President’s signature.
197 Pub. L. No. 111–195
nations and individuals.\textsuperscript{200} Presidents have invoked the IEEPA to declare an emergency with respect to Libya, Sudan, Syria, Afghanistan, Kuwait, and Iraq. The ISDCA is another empowerment statute that authorizes the President to ban imports into the United States of goods and services from any country that supports terrorism or harbors terrorists or terrorist organizations.\textsuperscript{201}

2. Executive Portfolios

Two days after assuming the office of the President, Obama issued an Executive Order to “promptly close” the Guantanamo prison, “consistent with the national security and foreign policy interests of the U.S. and interests of justice.”\textsuperscript{202} Note that the Executive Order specifically mentions “interests of justice” as a distinct reason for closing the prison.\textsuperscript{203} Some credited President Obama for boldly recognizing an unjust detention policy.\textsuperscript{204} This recognition pleased many Americans who do not wish their nation to engage in unjust acts of indefinite detention and mistreatment of Muslim people. The proposed closure of the prison also pleased Muslims across the world.

A brief history of the Guantanamo prison in Cuba demonstrates why its closure would have been crucial for creating goodwill in the Muslim world. President George W. Bush established the prison in response to the 9/11 terrorist attacks that shook the nation’s faith in constitutional liberties, and even in the rule of law.\textsuperscript{205} Most inmates were innocent and had committed no crime.\textsuperscript{206} Guantanamo, a constellation of camps, will go down in history as a Muslim prison, for all the inmates were Muslims of various nationalities, including Arabs, Afghans, Chechens, and Chinese Uighers. From the Muslim viewpoint, Guantanamo belongs to the genre of concentration camps, a genre that not only degrades inmates but assaults their core identity. The Nazi concentration camps not only degraded Jews, but also dishonored the idea of being a Jew. The American concentration camps for Japanese-Americans not only degraded Japanese-Americans, but debased the idea of being a Japanese-American.\textsuperscript{207} Likewise, Guantanamo not only degrades Muslim

\textsuperscript{200} Id. § 1702.


\textsuperscript{203} Id.

\textsuperscript{204} Obama Orders Guantanamo Closure, BBC NEWS (Jan. 22, 2009, 8:56 PM), http://news.bbc.co.uk/2/hi/7845585.stm.


\textsuperscript{206} Tim Reid, George W. Bush Knew Guantanamo Prisoners Were Innocent, TIMES (U.K.), Apr. 9, 2010.

\textsuperscript{207} The internment of Japanese-Americans during the Second World War was a classical act of overgeneralization which denied individuals their human dignity and treated the entire group as a monolithic unit. See Liaquat Ali Khan, King Hearings Targeting American Muslims Must Be
inmates, but desecrates the idea of being a Muslim.\textsuperscript{208} The guards physically and mentally tortured the inmates. But to attack the inmates’ Islamic identity, Guantanamo guards desecrated the Qur’an, intentionally misdirected inmates from saying the daily five prayers, and persistently ridiculed the idea of being a Muslim.\textsuperscript{209}

It now appears that Guantanamo will stay open for the foreseeable future.\textsuperscript{210} Congress has enacted funding restrictions on the transfer of inmates to the U.S. mainland and for their prosecution in federal courts.\textsuperscript{211} The 2010 National Defense Authorization Act (“NDAA”) prohibits the Secretary of Defense from using any funds to release non-U.S. Guantanamo inmates into the United States.\textsuperscript{212} The 2011 NDAA, which Congress had not yet enacted, goes even further and prohibits the use of funds to construct a facility for housing Guantanamo inmates in the United States.\textsuperscript{213} “As a result, detainees who have already been cleared for release, some of whom have been held for more than eight years, may continue to be held indefinitely without trial in violation of US obligations under international law.”\textsuperscript{214}

V. CONCLUSION

The portfolio theory presents foreign policy as a series of financial, military, diplomatic, and ideological investments in international relations. Portfolios protect and promote states’ interests through beneficial treaties, such as: trade agreements; security measures (e.g., peace pacts and defense alliances); foreign assistance programs; cultural exchanges; and diplomatic initiatives to resolve global, regional, and bilateral problems. The United States, as an international leader, administers numerous portfolios to cultivate interest-based relations with other states, groups of states, and international organizations. The United States as an influential nation also launches ideological portfolios to export its values. The Bush Administration was determined to export American liberty and democracy to the Muslim world. The Administration partly defended the invasion of Iraq by invoking


\textsuperscript{209} Id.


\textsuperscript{212} Id.


\textsuperscript{214} HUMAN RIGHTS WATCH, supra note 210.
the idea of bringing liberty to Iraqis who had been subjected to a lengthy dictatorship.215

Influential nations can launch portfolios incompatible with international law and human rights. Under extraordinary national security circumstances, the state’s portfolio managers come under intense pressure to protect national interests rather than human rights. When the United States faces security threats, as it did after the 9/11 attacks, portfolio managers, particularly the President, can embark upon a new course of foreign policy that would have faced stiff resistance from domestic political and legal institutions during times of security. Some portfolio managers may deliberately create international emergencies, such as starting a new war, to gain access to otherwise unavailable resources in shaping portfolios. Because portfolio managers command the most power in emergencies, they may discard international law in shaping portfolios. Such short-sighted violations of international law, however, damage the nation’s goodwill in the international community and invite threats to economic and security interests.

The portfolio theory explains how vested portfolios survive political changes and ideological shifts, preserving foreign policy inertia and continuity. The United States’ foreign policy, despite popular expectations, did not change with a new administration, and, in general, many portfolios do not change. U.S. portfolio managers frequently fortify key portfolios with federal legislation. The legislative fortification of portfolios makes it harder for subsequent portfolio managers to affect fundamental changes in foreign policy. The Obama Administration, therefore, has limited options to reverse the portfolios that prior administrations launched. The Obama Administration could use economic and trade sanctions to modify the behavior of Muslim states and militant groups that impede or do not support U.S. global or regional interests.

Unfortunately, future relations between the United States and the Muslim world are likely to remain acrimonious. U.S. special stakeholders and epistemic groups continue to paint Islam as a threat to American interests and values at home and abroad. Even U.S. general stakeholders hold an unfavorable view of Muslims and find connections between Islam and violence. On the other side, Muslims perceive U.S. portfolio managers as anti-Islamic, inclined to punish Muslim states and degrade Islam. Frustrated with ineffectual and non-representative governments, Muslim militants, as special stakeholders, continue to challenge international peace and security. Great effort is needed to readjust and discard failed international portfolios.