



NATIONAL SECURITY LAW REPORT

SPECIAL ISSUE: Advice for the Next Administration and Congress

In this issue we bring you a series of essays from a diverse group of national security experts offering their "Advice for the Next Administration and Congress."

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The Four Freedoms as Good Law and Grand Strategy

Mark R. Shulman

(Assistant Dean for Graduate Programs and International Affairs and an adjunct professor at Pace Law School. A more complete treatment of this topic appears in the Fordham Law Review. Please address any comments to MarkRShulman@gmail.com.)

The next President and Congress should work together to end the “Global War on Terror” and pursue instead a grand strategy animated by Franklin Roosevelt’s Four Freedoms. FDR first articulated them as undergirding his vision for a stable and secure post-war world. Read together – rather than as a list from which to select one value above others – they provide a flexible and yet principled framework for crafting a policy of security, prosperity and justice. Two generations later, they continue to represent meaningful values that have been incorporated into international law.

People have commonly misinterpreted the Four Freedoms as a menu from which to choose. In fact, FDR did not intend any one freedom to trump the others. They must be treated like legs of a table. If one were missing or even shorter than the others, the table would be unstable. FDR presented them during his January 6, 1941 address to Congress: “In the future days which we seek to make secure, we look forward to a world founded upon four essential human freedoms.” Roosevelt described them as a set, enumerating them one by one. “The first is freedom of speech and expression – everywhere in the world. The second is freedom of every person to worship God in his own way – everywhere in the world.” Clearly, FDR adopted these first two freedoms from the First Amendment. For the third, he drew on his own New Deal economic programs and signaled the need for international cooperation in order to achieve their objectives globally. “The third is freedom from want, which translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants – everywhere in the world.”

Finally, and most famously, Roosevelt addressed what he viewed as the immediate circumstances necessitating his new policy – the specter of another world war. “The fourth is freedom from fear.” Achieving this freedom required not only respect for the first three freedoms but also “a world-wide reduction in armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor – anywhere in the world.”

Over the years that followed, the Four Freedoms were incorporated into the fundamental documents of international law. The 1945 Charter of the new United Nations organization included them as basic principles. And following FDR’s death, Eleanor Roosevelt picked up her husband’s theme with vigor and determination. Under her leadership, the new UN General Assembly proclaimed the Universal Declaration of Human Rights in 1948, adopting the Four Freedoms in the preamble. “Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.” Numerous international conventions have similarly embraced them in the decades that followed. Sadly, policymakers have lost sight of their value, drawing on the Four Freedoms only when it appeared expedient to claim one or another.

Restored to their proper place at the center of U.S. policy, the Four Freedoms promise a more principled and more effective grand strategy than the open-ended and alienating “Global War on Terrorism.” The notion of a global war carries misguided and unhelpful connotations of start and stop dates, a special paradigm of constraints on conduct (*jus in bello*), and a strong bias toward military solutions. Moreover, the GWOT skews decision-making by privileging war objectives over unrelated priorities (such as dealing with a decaying infrastructure, widespread hunger and disease, climate change and emerging great power rivalries) that are also essential to the nation’s long-term security. In a complex, fast-changing world, the United States should not be waging open-ended war. Instead, it should be pursuing principled decision-making that allocates the nation’s resources most effectively to meet long-term challenges and opportunities. Historian Paul Kennedy explains, “The crux of grand strategy lies therefore in policy, that is, in the capacity of the nation’s leaders to bring together all of the elements, both military and nonmilitary, for the preservation and enhancement of the nation’s long-term (that is, in wartime and peacetime) best interests.”

Justice Stephen Breyer’s method of interpreting the Constitution is also helpful in explaining how to apply the Four Freedoms. In *Active Liberty*, Breyer examines six constitutional doctrines as they relate to the Constitution’s essential purpose as an instrument of democracy. By articulating the Constitution’s fundamental objective, Breyer offers a coherent intellectual framework for resolving the ambiguities, tensions, and conflicts in its text. For Breyer, this method of interpretation leads to decisions that advance the people’s will.

Similarly, Kennedy explains that the formation of grand strategy “is full of imponderables and unforeseen ‘frictions.’ It is not mathematical science in the Jominian tradition but an art in the Clausewitzian sense – and a difficult art at that, since it operates at various levels, political, strategic, operational, tactical, all interacting with each other to advance (or retard) the primary aim.” For Kennedy and Breyer, wise policymakers practice an art that is best informed by a clear statement of the values they seek to achieve.

The Four Freedoms offer that statement and should be employed similarly. They point the way to long-term security. To do so, they offer a concise statement of the values and aspirations against which policies should be evaluated. In some instances, one or more of the Four Freedoms will also offer clear guidance to consider the systemic effects of a given policy. For instance, they cannot be reconciled with wars of choice that will destabilize international order and stir up wide-spread resentment among friends and potential enemies. Nor would they sanction a policy to employ torture which would almost inevitably lead to a rise in intimidation and repression around the world. The Four Freedoms inform practice of the Clausewitzian art by reminding policy-makers of the wider context in which they practice it.

The next administration will draft a new national security doctrine. Typically, these documents pay lip service to the nation’s values but fail to build those values into the priority setting process. This disjunction has enabled administrations to employ despicable means that have frequently backfired. Witness, for example, regime changes forced upon Iran and the Congo in the fifties and Iraq more recently. If, however, a president and Congress expressly evaluate policies in light of the Four Freedoms, they would make more enlightened choices that increase the likelihood of long-term security gains. That might result, for instance, in more foreign aid and less military assistance.

A grand strategy based on the Four Freedoms does not imply aerial assaults to protect free speech or naval bombardment of those suffering from want. Instead the U.S. should promote values that have received near universal acclaim and that are embodied in international law. The Four Freedoms have just these qualities. Individually, they derive from a U.S.-framed consensus of enlightenment values. And they were adopted as part and parcel of the international bill of rights. Restoring them as the centerpiece of national security strategy would be a big step toward returning the United States to its position as a leader of an increasingly free and secure world.
