Hastings Constitutional Law Quarterly

Volume 45
Number 4 *Summer 2018*

Article 2

1-1-2018

The President's Constitutional Responsibility to Confront Climate Change and Invest in Renewable Energy for National Security

Bishop Garrison

The President's Constitutional Responsibility to Confront Climate Change and Invest in Renewable Energy for National Security

by BISHOP GARRISON*

Introduction

In the late 1970s the Central Intelligence Agency began reviewing the implications of climate change on its operations.[1] Congress took an additional two decades to identify the danger when it declared that the destruction of the environment, including global warming, was a "growing national security threat," and listed climate change as a threat to national security.[2] Then, in 2003, "An Abrupt Climate Change Scenario and its Implications for United States National Security," a Department of Defense report, stated that the effects of climate change could provide disastrous results for our country and the world at large.[3] And throughout President Barack Obama's administration, climate change was highlighted as an ongoing hazard to the safety of the United States and its interests.[4] The 115th Congress went as far as to ensure that climate change was addressed in the National Defense Authorization Act for Fiscal Year 2018, which President

* J.D. 2010, Marshall-Wythe School of Law, College of William and Mary; B.S. 2002 United States Military Academy. Garrison served two one-year-long tours in Iraq with the U.S. Army's 3rd Calvary Regiment. He served in multiple national security positions in the Obama Administration, and later served as the Deputy Foreign Policy Adviser on the presidential campaign of Secretary Hillary Rodham Clinton. Garrison is currently a National Security policy consultant in Washington, D.C. Special thanks to Sarah Hunt for her thoughtful research support, Cannon-Marie Green, my brilliant wife, for her editorial prowess, and the *Hastings Constitutional Law Quarterly* Editorial Board for the opportunity to write on the critical issue of climate security.

1. CAROLYN PUMPHREY, STRATEGIC STUDIES INST., GLOBAL CLIMATE CHANGE: NATIONAL SECURITY IMPLICATIONS 9 (2008.)

2. *Id.*

3. SPENCER WEART, STRATEGIC STUDIES INST., A NATIONAL SECURITY ISSUE? HOW PEOPLE TRIED TO FRAME GLOBAL WARMING 23 (2008).

4. *See generally* OFFICE OF THE PRESIDENT, NATIONAL SECURITY STRATEGY (2015), https://obamawhitehouse.archives.gov/sites/default/files/docs/2015_national_security_strategy_2.pdf.

Donald J. Trump subsequently signed into law.[5] While the most recent National Security Strategy failed to mention climate change directly[6], current Secretary of Defense James Mattis has repeatedly expressed the belief that climate change is a national security issue on the record in Senate testimony throughout his military and civilian career.[7] Military leaders continue to express great concern over the increasingly harsh weather conditions the rising global temperature has created, placing facilities and operations at risk.[8] Decades'-worth of reports by scientists and government officials lead one to reasonably conclude that climate change is indeed a threat to national security. This should lead constitutional scholars to ask, what duty, if any, does the president of the United States have to protect the country against the ramifications of climate change?

I. Constitutional Obligations

A. Executive Responsibility

Article II, Section 2 of the U.S. Constitution states that:

> The President shall be 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; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective offices.[9]

This clause creates an affirmative duty for the president as the decision-maker for all final military actions within the civilian led construction of the armed forces. As with the military, the structure is designed specifically within a hierarchy to provide decision-makers with the best possible advice

5. National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91 (2017).

6. Sydney Pereira, *Pentagon Scraps Climate Change as Security Risk in New Strategy—Even Though Defense Secretary Has Said It's a Clear Threat*, NEWSWEEK (Jan. 19, 2018), http://www.newsweek.com/pentagon-scraps-climate-change-security-risk-new-strategy-even-though-defense-785615.

7. Andrew Revkin, *Trump's Defense Secretary Cites Climate Change as National Security Challenge,* PROPUBLICA (Mar. 14, 2017), https://www.propublica.org/article/trumps-defense-secretary-cites-climate-change-national-security-challenge.

8. Sammy Roth, *Climate Change, Extreme Weather Already Threaten 50% of U.S. Military Sites*, USA TODAY (Jan. 31, 2018), https://www.usatoday.com/story/weather/2018/01/31/climate-change-extreme-weather-military-defense-department-trump-global-warming-wildfires-droughts/1079278001/.

9. U.S. CONST. art. II, § 2.

given the possible outcomes of the situations friendly forces may face. This high-level strategic guidance is not limited to kinetic activities or the traditional notions of warfighting that has been the primary focus of U.S. military doctrine for over two centuries. As time has progressed and society has evolved, so too has the nature of American forces and their mission in the protection of the country's interests. Diplomacy has become the tip of the national security spear. Large-scale force-on-force confrontation is less prevalent as asymmetric warfare and cyber warfare continue to rise and new national security threats, such as economic challenges,[10] and environmental concerns, become more prevalent. If the president maintains a definitive constitutional role as Commander in Chief to deal in matters of national security, and the national security apparatus views the threat of climate change as a distinct, real, and pervasive threat to American interests, it follows that the president would have an affirmative constitutional duty to see that policies, procedures, and actions are taken to prepare the military and the nation as a whole from the threat of climate change.

Alongside the Commander in Chief Clause in Article II, Section 2, the clause identifies the president as the principal officer of each of the executive departments.[11] This foundationally identifies the president as the chief executive of the government. This power makes the president responsible for the overall management of the government, the government workforce, as well as responsible to represent the interests of the entire citizenry. A part of that zealous representation is making decisions in the best interest of the country and its long-term health. Given the nature of the threat climate change presents, one may reasonably argue that the president has a responsibility to implement procedures and operations aimed at combating climate change-related challenges.

Additionally, one may argue that the president maintains a responsibility to deter and punish those who would violate laws and norms aimed at environmental protection under the Take Care or Faithful Execution Clause of the Constitution. Under Article II, Section 3, the president must "take care that the laws be faithfully executed."[12] The clause presents an affirmative duty requiring the president to enforce U.S. law and see that those who violate the laws are held accountable. With the importance of the climate security threat, it is of paramount importance that the president does not abdicate or ignore his or her responsibility to environmental protection

10. *See generally* C. NEU RICHARDS & CHARLES WOLF, RAND CORP., THE ECONOMIC DIMENSIONS OF NATIONAL SECURITY (1994).

11. U.S. CONST. art. II, § 2.

12. U.S. CONST. art. II, § 3.

to include both the investigation and, if necessary, the subsequent prosecution of violators, as well as the creation of policies that affirm, support, and reinforce current environmental law.

B. Responsibility to Congress

Congress maintains oversight authority of the executive branch through a variety of powers. Constitutionally, Congress maintains the authority to investigate and oversee the executive through powers, both implied by and enumerated, within the Constitution. Article I, Section 8, the "Necessary and Proper Clause," stipulates that "The Congress shall have the Power . . . To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or any Department or Officer thereof."[13]

Furthermore, Congress maintains the "power of the purse" through Article IX, Clause 7—the Appropriation Clause, as well as, Article I, Section 8, Clause 1—the Tax and Spending Clause. The Appropriation Clause, the cornerstone of the power, makes the legislative body the final decision maker on how funding is disseminated within the government, and requires agencies and the executive to account for and report the expenditures.[14] The Tax and Spending Clause authorizes Congress to levy tax, but more importantly for the nature of this discussion, limits the levying for the purpose of paying debts of the U.S. government, and "to provide for the common defense and welfare of the United States."[15] These powers have long been interpreted by the courts to demonstrate the intent of the Founders that while the president must see that the laws are faithfully executed, it is the legislative body who ensures that the executive branch—the Executive Office of the president and his or her duly appointed agency leadership—carries out its responsibility. The legislative body maintains this oversight through funding, Congressional hearings, Senate appointments, and other means. Thus, in order for Congress to fulfill its duties, it must know what actions, or inactions, the executive takes in the course of fulfilling his or her duties.

It follows, then, that the executive has an inherent responsibility to Congress for any action or failure to act in the normal course of his or her own duties. If, as evidence would indicate, climate change is a threat to U.S. national security and American interests, it would follow that the president as Commander in Chief has a responsibility not only to engage in actions

13. U.S. CONST. art. I, § 8, cl. 18.

14. U.S. CONST. art. I, § 9, cl. 1.

15. U.S. CONST. art. I, § 8, cl. 1.

that protect against its effects, but he or she would also have a legal responsibility to report on those actions and request financial support and legislative action from Congress when and where appropriate. And where the executive does not act, it is incumbent on Congress in fulfilling its own duties to determine why the inaction has taken place. Congress must carry out hearings, review federal funding, and conduct inquiries into the behavior or it too will find itself abdicating an essential constitutional duty.

C. Authority to Balance Action

While it is clear that the president has a duty to confront the effects of climate change and Congress has a duty to ensure that the president carries forth his role, does the president have the authority to balance climate action with other national security challenges? Routinely, the executive is required to balance national security and with civil liberties—free speech, freedom of the press, right to assemble, etc. Does an inherent balance between climate change and other priorities exist? Would competing interests be an acceptable conclusion for limited action or a complete lack of action in addressing climate security?

When we speak of balancing national security interests, we are ultimately discussing the process of risk management. Risk management is defined as "the continuing process to identify, analyze, evaluate, and treat loss exposures and monitor risk control and financial resources to mitigate the adverse effects of loss."[16] In this capacity, climate change policy is not truly in dispute. Scientific fact[17] illustrates that climate change takes place. The dispute or difference in opinions arises from the degree to which individuals might believe human action is the actual cause for changes in the environment, the degree to which human interaction can actually correct or have an impact on these changes, and what, if any, action is actually warranted. This political assessment in a partisan environment can, at times, fall along party lines where tighter environmental protections are viewed as stifling industry and economic growth, while less stringent policies may be viewed as harmful to the ecology of any area.[18] If the former is acceptable, then an administration may find itself reducing the prioritization of the issue. If the latter is the leading policy position, then the executive may instead

16. *What is Risk Management?*, MARQUETTE UNIV., http://www.marquette.edu/riskunit/riskmanagement/whatis.shtml.

17. *Global Climate Change, Vital Signs of the Planet,* NASA (Feb. 28, 2018), https://climate.nasa.gov/evidence/.

18. Marianne Lavelle, *The Partisan Climate Divide in Congress Wider Than Ever on Environmental Issues, Group Says*, INSIDE CLIMATE NEWS (Feb. 23, 2017), https://insideclimatenews.org/news/23022017/congress-environmental-climate-change-league-conservation-voters.

push the issue to a level of immediate concern. For example, the president may decide that having a robust coal industry is more important than limiting global mean temperature to two degrees Celsius, as was agreed by signatories to the Paris Agreement, and prioritize the two issues accordingly.

Despite differing views on climate change as a political matter, there is nothing that negates the duty of the executive to combat the issue as a national security threat. Issues of defense spending, cyber security, physical and infrastructure resiliency, and regional relations and stability throughout the world are all held as ongoing national security concerns that must be addressed in the interest of America and its allies. While their prioritization may fluctuate from year to year or administration to administration, their relevance within the national security strategy does not. While politicians and policy makers may provocatively question the inherent causes of climate change—whether it is of man's own creation or purely a natural phenomenon—what cannot be questioned is the continued need to address the situation.

To delay discussion or action does not cause the problem to resolve itself or disappear on its own, nor does it relieve the executive of his or her duty to act. Additionally, it does not absolve the necessity and responsibility of Congressional oversight. The president may have the authority to adjust prioritization as he or she may deem issues of national security at varying relevance to be balanced with real-world events in real time, but he or she is not permitted the comfort of inaction at any time.

II. International Obligations

A. Treaties and Alliances

From a domestic perspective, the president has a constitutional duty to take action to limit climate change, and Congress, in its oversight capacity, has a responsibility to see that the duty is fulfilled. Additionally, the president has to take care to adhere to international treaties and commitments to international alliances and allies.

Article II, Section 2, of the Constitution gives the president the power to commit the United States to treaties. The article stipulates, however, that the president may do this only with the advice and consent of two-thirds of the Senate, and only if the agreement is not in violation of the Constitution.[19] Once signed and ratified, the treaty becomes the controlling law for all American jurisdictions due to the Supremacy Clause of the Constitution.[20]

19. U.S. CONST. art. II, § 2.

20. U.S. CONST. art. VI, cl. 2.

As discussed in the previous section with regard to the Take Care Clause, the president has a duty to ensure the laws are faithfully executed. Therefore, the president has an affirmative duty to ensure that ratified treaties are upheld. There are several environmental instruments that are enforced in the United States. According to the Environmental Protection Agency ("EPA"), of particular note, are conventions on Air, Marine, and Multi-Media such as Minamata Convention on Mercury and the North American Agreement on Environmental Cooperation ("NAAEC").[21] For the latter, the NAAEC is an environmental agreement as a portion of the North American Free Trade Agreement, NAFTA.[22] U.S. relations with its closest geographic neighbors and allies as well as the trade agreement itself could be affected and have lasting ramifications if a party fails to adhere to its requirements. Thus, the importance of the president to adhere to the constitutional duty and requirements of the position have an additional effect on international relations—nonadherence could damage key alliances.

B. Adhere or Ignore

America's reputation in the international community concerning climate security and the environment will also be damaged by nonconformity to international norms and a lack of adherence to well-established law. If the United States cannot be relied on to live by the standards outlined in these agreements, a lack of trust could emerge, polluting other diplomatic engagements, thereby making America less safe and more isolated. Proof of this can be viewed in the Paris Agreement.

The Paris Agreement is a multilateral agreement created as part of the United Nations Framework Convention on Climate Change.[23] The agreement was designed to address carbon emissions and mitigation actions beginning in the year 2020. Terms of the treaty were drafted and negotiated by the representatives of each signatory state and subsequently adopted in Paris in December 2015. All but one country, the United States, has ratified the agreement with 174 countries becoming full parties to it.[24] The Trump

21. Minamata Convention on Mercury, *adopted* Oct. 10, 2013, T.I.A.S. No. 17-816; North American Agreement on Environmental Cooperation, Can.-Mex.-U.S., Jan. 1, 1994, 32 I.L.M. 1480.

22. North American Free Trade Agreement, Can.-Mex.-U.S., Dec. 17, 1992, 32 I.L.M. 289 (1993).

23. Paris Agreement, *opened for signature* Apr. 22, 2016, _ U.N.T.S. 54113 (entered into force Nov. 4, 2016).

24. Paris Agreement, *supra* note 23.

Administration announced that the U.S. would withdraw from the accord completely in November 2020.[25]

From a legal perspective, the president within his authority to remove the U.S. from the agreement because the accord was not a signed and ratified treaty. Outside of treaties, in matters of foreign relations, "the President is the sole organ of the nation in its external relations, and its sole representative with foreign nations."[26] This is known as the Sole Organ Doctrine.[27] From a security perspective however, the withdrawal will arguably have lasting ramifications on American climate security, foreign policy, and economic stability. This principle has long been recognized as one of the cornerstones to the immense power of the president as Commander in Chief and the country's chief diplomat. Still, with legal equities aside, the move received nearly universal rebuke from foreign nations as well as members of Congress. As Simon Reich, professor of Global Affairs at Rutgers University wrote, "There are likely few benefits to the United States [leaving the Paris Agreement]. American coal is not in demand and the growth of the renewable power suggests that the demand for fossil fuels will gradually decline anyway."[28] Coupled with a continued reduction and rescinding of environmental regulation throughout the administration's first year,[29] an argument can be made that the president is abdicating his constitutional duty as Commander in Chief to combat the long-recognized national security of climate change.

Furthermore, as the United States continues to operate without energy independence and with evidence of a renewed interest in the use of traditional fossil fuels, European nations have increased efforts to invest in the research and development, as well as, the current day implementation of clean energy and alternative energy solutions. As part of the new budget, the Trump administration called for a nineteen percent increase in funding to the Fossil Energy Research and Development Office of the Department of Energy, allotting a total investment of $502 million to make advanced power

25. Michael D. Shear, *Trump Will Withdraw U.S. From Paris Climate Agreement*, N.Y. TIMES (June 1, 2017), https://www.nytimes.com/2017/06/01/climate/trump-paris-climate-agreement.html.

26. United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 319 (1936).

27. *See* LOUIS FISHER, LIBR. OF CONGRESS, THE LAW: PRESIDENTIAL INHERENT POWER: THE SOLE ORGAN DOCTRINE (2007).

28. Simon Reich, *Is This the End of America's Global Leadership?*, U.S. NEWS (June 2, 2017), https://www.usnews.com/news/best-countries/articles/2017-06-02/what-leaving-the-paris-climate-agreement-means-for-us-global-leadership.

29. Michael Greshko et al., *A Running List of How Trump is Changing the Environment*, NAT'L GEOGRAPHIC (Feb. 13, 2018), https://news.nationalgeographic.com/2017/03/how-trump-is-changing-science-environment/.

systems based on fossil fuels like coal and natural gas more efficient.[30] In contrast to U.S. actions, in 2017 the French government presented a €57 billion investment plan projected to run from 2018 to 2022.[31] The plan included: €20 billion for energy transition, €9 billion for energy efficiency measures, €7 billion for renewables, and €4 billion to expedite the switch to electric vehicles.[32] In the same year, Germany broke a renewables record with coal and nuclear power production accounting for only fifteen percent of the country's total energy.[33] Alternative energy from wind, solar, biomass and hydro made up eighty-five percent of Germany's total energy that year.[34] Germany, like France, placed increased investments in renewables in an effort to transition from fossil fuels and nuclear power to environmentally friendly alternative fuels.[35] In 2016, ninety-eight percent of Norway's electricity production was the result of renewable energy, with hydropower producing a majority of its energy.[36] Many other nations such as Switzerland, Georgia, and Iceland, among others, are making enormous strides toward renewable energy.[37] A study led by Stanford University in partnership with other American and European institutions, predicted that a majority of the world's countries could run entirely on renewable energy by 2050.[38]

As this trend continues, America will potentially find itself lingering farther behind both its allies and adversaries in the innovation of future technologies aimed at creating energy independence. Ultimately, an overreliance on imported fossil fuel takes a toll on both security and

30. Timothy Gardner, *Trump Budget Cuts Renewable Energy Office, Ups Nuclear Weapons Spending*, REUTERS (Feb. 12, 2018), https://www.reuters.com/article/us-usa-budget-energy/trump-budget-cuts-renewable-energy-office-ups-nuclear-weapons-spending-idUSKBN1FW2MZ.

31. Joshua S. Hill, *France Commits €20 Billion to Energy Transition Plan, Including €7 Billion in Renewables by 2022*, CLEAN TECHNICA (Sept. 27, 2017), https://cleantechnica.com/2017/09/27/france-commits-e20-billion-energy-transition-plan-including-e7-billion-renewables-2022/.

32. *Id.*

33. Charlotte England, *Germany Breaks Renewables Record with Coal and Nuclear Power Responsible for Only 15% of Country's Total Energy*, INDEPENDENT (May 5, 2017), http://www.independent.co.uk/news/world/europe/germany-renewable-energy-record-coal-nuclear-power-energiewende-low-carbon-goals-a7719006.html.

34. *Id.*

35. *Id.*

36. *Renewable Energy Production in Norway*, NORWEGIAN MINISTRY OF PETROLEUM AND ENERGY (May 11, 2016), https://www.regjeringen.no/en/topics/energy/renewable-energy/renewable-energy-production-in-norway/id2343462/.

37. John McKenna, *Most of the World's Countries Could Run on 100% Renewable Energy by 2050, Says Study*, WORLD ECON. FORUM (Sept. 18, 2107), https://www.weforum.org/agenda/2017/09/countries-100-renewable-energy-by-2050/. *See also* Mark Z. Jacobson et al., *100% Clean and Renewable Wind, Water, and Sunlight All-Sector Energy Roadmaps for 139 Countries of the World*, 1 JOULE 108 (2017).

38. Jacobson et al., *supra* note 37.

economic stability. This fact will hurt America's climate security as it continues to maintain regulations and practices that are more harmful to the environment. It will eventually take a toll on economic stability as well. As many other world powers pledge reductions in pollution and environmentally harmful practices, the energy world economy could shift. Those countries with early entry and deeper investment in these cleaner technologies will find themselves more financially stable in these future industries. They have and will continue to build deeper economic ties through workforce investment, infrastructure support, secondary education, and government subsidies that incentivize private industry and reduce cost for entry into the industry by smaller businesses and entrepreneurs. These industries will continue to grow and prosper abroad as lack of support, investment, and workforce base will exclude America from these markets. As the future grows around these new technologies, the United States will be left in a weaker economic position, still relying on traditional policies of energy and climate in maintaining its security and status in the world. This will eventually lead to not only a political decline, but also an economic decline, as well as losing vital position as a strategic power. China, Russia, and other strategic opponents, though maintaining some current fossil fuel practices, have already increased their investments in cleaner energy solutions. Not keeping pace with these national security rivals, and often adversaries, makes the United States less safe.

C. Economic Stability as It Relates to Climate and National Security

A final argument for the president's responsibility in countering climate change as a national security threat is tied to economic stability.

Economic stability has been an issue that has plagued nations across the globe. While the United States maintains the largest economy in the world, it finds itself with some of the greatest debt. Congress, with the support of the president, continues to outspend estimated revenues, creating budgetary shortfalls and gaps that further complicate the country's fiscal responsibilities. Obama officials searched for avenues to help generate growth and smart investments that would help activate industries creating new systemic and systematic lasting opportunities, with solar energy as one of the many examples.[39] In essence, the government often looks for alternatives and new industry to create jobs that support the economic stability the country requires. Climate change science, particularly in the

39. Press Release, The White House, Obama Administration Announces Clean Energy Savings for All Americans Initiative (July 19, 2016), https://obamawhitehouse.archives.gov/the-press-office/2016/07/19/fact-sheet-obama-administration-announces-clean-energy-savings-all.

development and innovation of renewable energy, has proven itself to be one of the ripest areas of that growth.

Thomas L. Friedman has argued that "the United States should be at the forefront of a "green revolution" because it presents a significant commercial and economic opportunity for the United States to emerge out of its current economic doldrums and effect transformative retraining and retooling in order to move from a carbon economy to one relying upon clean, renewable energy sources."[40]

As Francesco Starace of the Enel Group stated in an article for the *World Economic Forum*, a portion of the climate change debate is founded upon the principle of economic growth. "Economic growth of an individual or a nation implies increased pollution: progress demands energy, and access to energy is ever more at the cost of the environment."[41]

Using Latin American development as an example, Starace goes on to argue that:

> Renewable resources needn't just be a reaction to climate change. They are motors of progress. The benefits are many, tangible and immediate: Technology makes renewable resources all the more competitive from a financial point of view, but they also have an extremely fast time-to-market. Renewable energy can be competitive with traditional energy production, even in geographic areas where its development is still in the early stages . . . . Renewable resources provide diversification of a country's energy mix, making the energy system more resilient and better focused on addressing the challenges posed by climate change . . . . Renewable resources generate energy security in the country that develops them, because their production does not depend on the volatility of commodity prices . . . . Renewable resources also help in solving the issue of bringing energy to isolated communities . . . [and r]enewable resources create local jobs and above all else promote a direct, inclusive dialogue with communities that are based in the territory . . . .[42]

40. Mark E. Rosen, *Energy Independence and Climate Change: The Economic and National Security Consequences of Failing to Act*, 44 U. RICH. L. REV. 977, 980 (2010) (citing THOMAS L. FRIEDMAN, HOT, FLAT, AND CROWDED: WHY WE NEED A GREEN REVOLUTION—AND HOW IT CAN RENEW AMERICA 172 (2008)).

41. Francesco Starace, *Renewable Energy is Not Just a Fix for Climate Change—It's Also a Sign of Progress*, WORLD ECON. FORUM (June 15, 2016), https://www.weforum.org/agenda/2016/06/beyond-climate-change-renewable-energy-is-more-than-just-a-fix/.

42. *Id.*

Ultimately, though this example holds some nuance in its regional specificity, it remains as powerful evidence to the concept of investment in climate change as a progressive step for a developed country's economic stability.

Additionally, we've seen similar investments domestically in America. Across the U.S., state and local governments have continued their push for investment in renewable energy sources. Even as the federal government continues to cut investment in renewable energy and create regulations that may act as a barrier to entry for many in the industry, state governments are increasing their investments. After years without growth, the solar industry in Pennsylvania increased its workforce by twenty-six percent in 2017.[43] It was the second year in a row of employment growth following years of decline.[44] Industry analysts believe this was due to "solar-friendly policies at the state level—and falling equipment prices encouraging more installations . . . ."[45] Just this year, a ballot initiative in Arizona is being presented to increase the use of solar, wind, and other alternative energy.[46] In 2006, Arizona passed the Renewable Energy Standard and Tariff, a regulation requiring electric companies to receive fifteen percent of their power from renewable energy by 2025.[47] Other states in the region have higher requirements for future renewable energy consumption: California at fifty percent by 2030, Nevada at twenty-five percent by 2025, Utah with a voluntary twenty percent goal by 2025, and Colorado at thirty percent and New Mexico at twenty percent both by 2020.[48] And this year in Massachusetts, the legislature unveiled a bill that would create an overall goal of one-hundred percent reliance on renewable energy by 2050.[49] As reported, the measure aims to increase offshore wind power and hydroelectricity, increase storage capacity for renewable energy, and expand access to curbside charging stations for electric vehicles.[50] These examples

43. Daniel Moore, *With Solar-friendly Policies, State Solar Jobs Rise 26 Percent*, PITT. POST-GAZETTE (Feb. 13, 2018), http://www.post-gazette.com/business/career-workplace/2018/02/13/Pennsylvania-solar-jobs-rise-26-percent-despite-national-slump/stories/201802120090.

44. *Id.*

45. *Id.*

46. Ryan Randazzo, *Ballot Initiative Aims to Increase Arizona's Use of Renewable Energy*, ARIZ. REPUBLIC (Feb. 11, 2018), https://www.azcentral.com/story/news/politics/arizona/2018/02/11/ballot-initiative-aims-increase-arizonas-use-renewable-energy/326083002/.

47. *Id.*

48. *Id.*

49. *Bill Would Increase the State's Reliance on Renewable Energy*, ASSOCIATED PRESS (Feb. 12, 2018), https://www.usnews.com/news/best-states/massachusetts/articles/2018-02-12/bill-would-increase-the-states-reliance-on-renewable-energy.

50. *Id.*

of local efforts to increase growth in renewable energy to combat climate change while creating stability for state and local economies act as evidence of the inherent tie between climate security and economic stability.

Though the president does not control the economy, and many factors affect economic health—from policies to consumer expectations to, ironically, oil stocks—one may argue that he or she must, by virtue of their office, do what is in the best interest of the country for economic prosperity. The president has a responsibility to act in the best interest of the economy for the American people. It should be recognized that given the sheer size of U.S. economic interests and its effect globally, the U.S. government and the president, as its chief executive, have an increased interest in domestic stability as it relates in direct correlation to global economic equilibrium. If we take these to be true statements—given the connection between climate change and security to economic stability—it follows that the president and his or her administration have a direct responsibility to see that reasonable investments in policies, research and development, and innovation in climate change sciences are prioritized. Climate security is a growing issue of economic stability and that stability is a long-identified and understood issue of national security. As Commander in Chief, it is up the president to act to protect American interests domestically and abroad.

Conclusion

The president of the United States acts as the country's chief executive as well as the Commander in Chief of the armed forces. These roles create a very specific and very real constitutional responsibility for the protection of the country domestically as well as the protection of its interests and support of its allies.

First, as presented in this work, the national security apparatus of this country has long held the view that climate change and the security of the climate is an issue of grave concern and truly one of national security. It follows, then, that the president, from a legal and nonpartisan position, has an established constitutional duty under Article II, Section 2, and Article II, Section 3—the Commander in Chief Clause and Take Care Clause respectfully—to ensure that policies are in place and laws are followed in combatting climate change and ensuring American climate security. The president has a constitutional obligation to Congress see that any law regarding climate change is properly enforced within the range of his or her power.

Second, Congress has the constitutional duty of oversight to ensure that the president upholds his or her lawful duties. Through the Necessary and Proper Clause, Congress has the sole power to make laws. The Tax and

Spending Clause and the Appropriation Clause ensure that Congress has the power to oversee the execution of those laws.

Furthermore, the Supremacy Clause requires that the president adhere to the terms provided by any officially signed and ratified treaty that has been implemented domestically by federal legislation. There may be a colorable argument that treaties that have been signed require the president to continue to act in good faith by doing all he or she can to have the Senate pass a resolution to ratify the treaty and have Congress pass implementing legislation. Failure to do so violates the spirit of the president's authority under the Supremacy Clause, the spirit of the treaty, and is likely to hurt American foreign relations and the country's prominence in the international community. Both factors affect the nation's interests abroad as relationships are key to economic interests in other countries as well as the assets necessary to achieve future outcomes.

Finally, the president has a responsibility to protect and uphold the economic stability of America's future. As the chief executive outlined in Article II, the president has a responsibility to the people in their representation and governance of civic administration. A factor of each is the continued financial growth and prosperity of the economy. Additionally, economic stability is viewed by the national security community as an issue that can affect the readiness of forces and their ability to properly protect American interests domestically and abroad.

Though the president does not hold a direct responsibility for the economy's success or failure, he or she holds an inherent responsibility to act in the best interest of the American people, which includes economic interests. Therefore, protecting and securing economic stability through policy and law enforcement would fall within the executive's purview. Investment in renewable alternative energy systems and climate security is paramount to the country's future prosperity. Given the challenges climate change places on states and localities, the evidence is clear that climate change and national security are fundamentally intertwined. Further, confronting climate change is imperative for the nation's economic stability and future prosperity.

These factors based in constitutional law and principle illustrate that the president of the United States and his or her representatives within the administration have a clear duty in the interest of national security to confront the negative effects that climate change presents. Inaction represents a dereliction or abdication of that duty that Congress must address through its own constitutional duty. The future of American security, economic stability and growth, and the nation's ability to be a global leader rests, in part, on how the government addresses climate change.