

Feb 16th 2013 | NEW YORK | From The Economist

THE Dodd-Frank law of 2010 requires a “say-on-pay” vote for shareholders of American companies. Clever lawyers scent a payday for themselves.

One law firm in particular, Faruqi & Faruqi, has filed a series of class-action suits demanding more information about how companies decide what to pay their senior executives. It seeks to prevent its targets from holding their annual meetings until the extra information turns up. One such suit, against Brocade Communications, a Californian company, forced the suspension of the annual meeting last February. Brocade quickly settled. Faruqi’s fees were \$625,000. Several other companies, not wanting to delay their meetings, have settled similar suits.

Alas, paying up does not make the problem disappear, as English kings discovered long ago when they bribed Viking marauders to go away. DLA Piper, a law firm defending companies, warns that if a company offers extra disclosure and settles a suit, “every piece of information it discloses may provoke a plaintiff to argue that yet more backup information is required.” Companies fear they will end up paying an “annual meeting tax”.

Some have decided to fight back. Microsoft was the target of a suit last October, filed by Natalie Gordon, who held less than \$6,000 of stock. The company wheeled out bigger shareholders who found nothing wrong with its disclosure, and a law professor who testified that not one of Microsoft’s peers disclosed all the information Ms Gordon was seeking. The suit was eventually dropped—after Microsoft had spent more on lawyers and experts than it would have cost to settle.

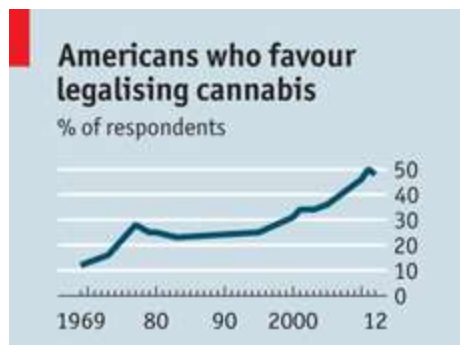
Juan Monteverde, the lead lawyer at Faruqi & Faruqi on these cases, says that the extra disclosure he is suing for should be easy to provide, and is part of directors’ fiduciary duty. The first such case that came to him, against Brocade, came “out of the blue” from a concerned plaintiff, he says.

Mr Monteverde will not say anything about Ms Gordon, or how his firm came to represent her in six suits against public companies in the past year (including Microsoft). He dismisses the idea that lawyers are actively seeking clients to win quick settlements and fees: “Every successful plaintiffs’ lawyer in this country is always called ‘entrepreneurial.’” Criticism does not ruffle him. “We believe in what we’re doing,” he says.

The great experiment

At last, drug prohibition is being challenged by fresh thinking

Feb 23rd 2013 | [From the print edition](#)



UNTIL recently it seemed that nothing would disturb the international consensus that the best way to deal with narcotic and psychotropic drugs is to ban them. Codified in a United Nations convention, this policy has proved impervious to decades of failure. Drug consumption has not, in most parts of the world, fallen. Prohibition inflicts appalling damage, through the spread of organised crime, the needless deaths of addicts exposed to adulterated drugs and the mass incarceration of young men.

Now a whiff of change is in the air. Officials in two American states, Colorado and Washington, are pondering how to implement their voters' decisions in referendums last November to legalise marijuana (cannabis). A dozen countries in Europe and the Americas have deemed the possession of some drugs no longer to be a criminal offence. A few Latin American presidents want a rethink of the "war" on the supply and trafficking of drugs.

Several forces are bringing change. First, public attitudes are starting to shift. Americans have seen that the widespread availability of marijuana for ostensibly medical use has not led to mass addiction. Polls show that around half now support full legalisation. In Britain, a poll this week found a similar proportion in favour of decriminalising cannabis possession.

Latin America is also tiring of trying to suppress production. That is not surprising: in several countries, the death toll associated with efforts to combat the drug business has risen to the level of a conventional war. Mexicans complain that the notion of "shared responsibility" proclaimed by international bureaucrats means that their people get killed whereas the United States, with its soft gun laws, arms the traffickers, launders their money and consumes their product.

Changes in the drug market, meanwhile, are undermining the idea that the problem can be dealt with only at an international level. Synthetic drugs, such as amphetamines and Ecstasy, are now more widely used than cocaine and heroin. Scientists dream up new "highs", while the law lags. As a result, the neat distinction between "consumer", "supply" and "transit" countries has broken down: the United States and Europe are big producers of cannabis and synthetics, while Brazil, formerly a "transit" country, is now the world's second-biggest consumer of cocaine. That is leading to experimentation with drug policy at a national and state level.

The Economist has long argued that prohibition is illiberal in principle and harmful in practice, and that the least-bad way of dealing with drugs is to legalise and regulate their production and consumption. But we recognise that it takes a brave politician to face down the moral panic that surrounds the issue.

This new thinking, though limited, is therefore welcome. Legalising consumption allows drug use and addiction (by no means the same thing) to be treated as the public-health issues they are. That in turn means applying the principle of harm reduction, for example by providing clean needles to addicts to prevent the spread of HIV.

But decriminalising consumption does nothing to break the grip of gangsters over the drug business. For that to happen, production and distribution also need to be legalised. That is why the experiment under way in the United States is so important. Colorado and Washington now have the chance to create a legal but regulated market in marijuana, similar to those for tobacco or alcohol. Their referendums approved sales of drugs through regulated outlets only, and not to minors. The states now need to design a way of taxing cannabis that discourages consumption while avoiding the creation of a black market.

This experiment has three potential benefits. It should help to determine whether legalisation boosts drug use. It will undermine Mexican drug gangs, which earn perhaps \$2 billion a year from cannabis exports to America. And it might provide a model for regulating other, harder, drugs.

The feds should stand back

A threat hangs over the scheme: in 2005 the Supreme Court upheld the federal ban on marijuana for medical use, even in states where this was legal, because of the risk that the drug would leak to other states. The danger of leakage will increase once this experiment gets under way. So it is encouraging that Barack Obama has said that he does not see prosecution of pot smokers in Colorado and Washington as a “top priority”, which means that he plans to do nothing for the moment. Since most of the benefits of legalisation will take a while to show up, it is to be hoped that he will hold his nerve.

One immediate consequence is that the United States will be in breach of the UN Convention. Good. It should now join Latin American governments in an effort to reform that outdated document to allow signatories room to experiment. Imposing a failed policy on everybody benefits nobody.

Towards a ceasefire

Experiments in legalisation are showing what a post-war approach to drug control could look like

Feb 23rd 2013 | DENVER, LA PAZ, LISBON AND MADRID | [From the print edition](#)

FROM the Colorado state capitol in Denver, head south on Broadway, one of the city’s main arteries, and before long you find yourself in “Broadsterdam”, a cluster of dispensaries with names like Ganja Gourmet and Evergreen Apothecary. They peddle dozens of strains of pot, as well as snacks, infusions and paraphernalia, to any state resident bearing a “red card”: proof of a doctor’s recommendation.

Landlords in the area were struggling, says William Breathes (a pseudonym), whose reviews for a local paper make him, he says, America’s first mainstream pot critic. But when Colorado began to regulate the sale of marijuana for medical use in 2010, they saw an opportunity.

Broadsterdam of 2013, and many places like it in America and Europe, would have been unimaginable in New York in 1961, when diplomats hammered out the Single Convention on Narcotic Drugs, which aimed to counter the “serious evil” of addiction. That treaty, with 184 countries signed up, underpins the prohibition policy of the past half century. Though an international debate on legalisation has barely started, experiments are already showing how the production and consumption of drugs could be regulated.

Change is coming because the “war on drugs” is being convincingly won by drugs, and the powerful criminal gangs who deal in them. Since 1998, when the UN held an event entitled “A drug-free world: we can do it”, consumption of cannabis (marijuana) and cocaine has risen by about 50%; for opiates, it has more than trebled. And a swelling pharmacopoeia of synthetic highs is spinning heads in dizzying new ways. The UN reckons that 230m people used illegal drugs in 2010. They and their suppliers (usually the humblest ones) fill prisons in rich and poor countries alike. Drug convictions account for almost half of American prisoners in federal jails.

Burned at both ends

If efforts to stem demand have been futile, trying to control supply has been disastrous. The illegal-drug industry’s revenues are some \$300 billion a year, according to the very roughest of guesses by the UN, and flow untaxed into criminal hands. Drug-running mafias corrupt and destroy the places where they operate. Of the world’s eight most murderous countries, seven lie on the cocaine-trafficking route from the Andes to the United States and Europe. Only war zones are more violent than Honduras. More than 7,000 of its 8m citizens are murdered each year. In the European Union, with a 500m population, the figure is under 6,000.

Latin American leaders are tiring of this. Trying to stop the flow of narcotics is akin to the legendary Sisyphus futilely pushing a boulder uphill, says Fernando Carrera, Guatemala’s foreign minister. In recent years his country has laboriously cleared its San Marcos region of opium crops, only to see it replanted five times. The president, Otto Pérez Molina, now wants to see global legal regulation of all drugs, from hashish to heroin, albeit with strict controls. Juan Manuel Santos, president of Colombia, favours legalisation, but says that his country cannot lead the way. Last year Felipe Calderón, the outgoing president of Mexico, declared it “impossible” to stop the drugs business and called for “market alternatives”. Uruguay’s government has sent to congress a bill to legalise the sale of pot through state-backed dispensaries. Smokers would be allowed to buy up to 40g per week, with profits funding crime-prevention and anti-addiction schemes.

In parts of the United States, change has already come. In November voters in Colorado and Washington backed proposals to legalise, tax and regulate cannabis for recreational use. State officials are now scrambling to draft the practical rules. On February 28th a task force charged with producing recommendations for the Colorado legislature will issue its report.

Though non-binding, this will be the first glimpse of what a fully formed regulatory regime for legal cannabis may look like. Although plenty of countries (and 15 American states) have decriminalised cannabis possession, in many cases treating it as no worse than a traffic infraction, nowhere has fully

legalised its supply. Within a year the entire supply chain in Colorado and Washington, from cultivation to manufacture to retail, will be within the law. State coffers will gain tax and fee revenues and save in law-enforcement resources (maybe \$60m a year in Colorado). Licensed outlets will appear on the streets.

Assuming, of course, that the federal government consents. Marijuana remains illegal under America's Controlled Substances Act, the 1970 law that implemented the Single Convention in the United States and that is still the foundation of federal narcotics policy. The CSA classifies it as a "Schedule I" substance, meaning it can easily be abused and has no recognised medical value. (A federal appeals court recently rejected an attempt to have it reclassified.)

In December Eric Holder, the attorney-general, said that the justice department would issue a response to the state laws "relatively soon". But for the time being the department says only that it is reviewing the state initiatives, and that marijuana remains illegal under federal law. Shortly after Mr Holder's statement, Barack Obama told a television interviewer that he would not make it a priority to prosecute pot smokers in the two states. But the federal government has never had the resources to target users, only big traffickers.

One clue to the future comes from the 18 states plus Washington, DC, where medical marijuana is legal. The Feds have come down hard on some growers and distributors in states that have drafted their laws poorly. In 1996 California was the first state to approve medical marijuana but lawsuits clog the courts, competing regulatory ballot measures confuse voters, and in some cities pushy dispensaries unnerve residents. In better-regulated places (like Colorado) the federal authorities have done little. A big issue will be leakage of legal marijuana from Colorado or Washington to other states. After meeting Mr Holder in January, Jay Inslee, the governor of Washington, told reporters that the state would pay particular attention to this.

For some, that is a futile gesture. "We'll become the source for most of the rest of the country," says a weary Tom Gorman, of the Rocky Mountain High Intensity Drug-Trafficking Area, a federal anti-drug outfit in Denver. Last year it tracked dozens of cases of diversion of Colorado's medical marijuana, finding it in 23 states. Legalisation will add to the flow.

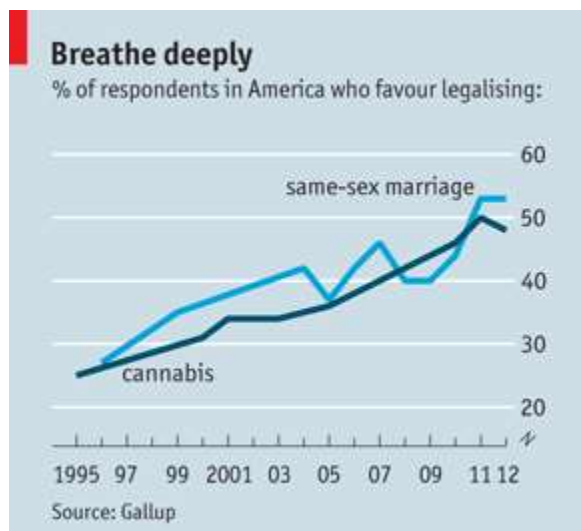
Yet diversion also makes life more difficult for the criminal gangs of Mexico, which are reckoned to supply anything between 40% and 70% of America's pot. Their trade reaps profits of \$2 billion a year according to IMCO, a Mexico City think-tank; cocaine profits are \$2.4 billion. Part of the business model is murder: of around 70,000 people over the past five years. But IMCO reckons that once Colorado and Washington's growers get going, the Mexicans could lose nearly three-quarters of their American customers (though others question these numbers).

Much will depend on how the state laws take shape. The Colorado task force has already suggested letting retailers serve non-residents, possibly in limited amounts. It also wants to relax restrictions on financial services for the industry. Many dispensaries struggle to obtain even basic banking and credit.

Trying to stay upright

Jack Finlaw and Barbara Brohl, who chair the task-force, are also pondering the “vertical integration” rules that have shaped the state’s medical-marijuana industry. Dispensaries must grow at least 70% of the marijuana they sell. Some cultivate it in-house; most grow it in off-site warehouses. This hampers distribution and wholesale markets. Rob Corry, a pro-legalisation lawyer, terms it “absurd, like a supermarket owning apple orchards”. As elsewhere, tight rules have costs. But they have also helped citizens get used to an unfamiliar trade. “We’ve shown that we can make the industry work here,” says Ean Seeb of Denver Relief, a leading dispensary.

Public acceptance, plus a clever campaign (paid for partly by outside money), led to victory in Colorado. Washington’s medical-marijuana industry is less advanced, but opponents of legalisation there were even more widely outspent.



More changes are looming. As with gay marriage (see chart), something that seemed revoltingly decadent to many Americans in past years has rapidly won acceptance. Campaigners are seeking further wins, mainly in the relatively liberal states of the west and north-east. Some dare to dream of changing federal law.

Their foe is the mighty prohibition industry: officials and bureaucrats who have spent their professional lives combating illegal drugs. Law-enforcement officers and Drug Enforcement Agency (DEA) officials have written to Mr Holder urging him to uphold federal law. Yet others counter that legalising pot will boost consumption, particularly if it can be advertised and marketed. That brings fears of health and other risks. Others counter that smoking more dope would mean people drank less alcohol, which is arguably a more destructive drug. But the effect could be the other way round. What legal pot would mean for tobacco and cocaine use is also unknown.

Cannabis policy is changing in Europe, too. At Santa María, a shop across the street from one of Madrid’s main hospitals, customers queue to buy fertilisers, potting earth and imported Dutch cannabis seeds. The owner, Pedro Pérez, cheerfully warns customers not to plant until late in March when the frosts have gone.

Spain's approach now rivals that of the pioneering liberal Dutch. Though selling is illegal, buying is not. One result is hundreds of cannabis "social clubs", which allow members to pool their purchases. These range from small co-operatives where new members must wait six months for new cannabis to be grown before joining, to huge semi-commercial organisations, with thousands of "members" buying cannabis. One in Barcelona even made a €1.3m (\$1.74m) deal with the country town of Rasquera to grow supplies on local land, better known for its almond trees. Similar experiments are under way in France, Belgium, Italy and Germany, says Tom Blickman of the Transnational Institute, a think-tank based in Amsterdam. In much of Britain, especially its big cities, the risk of prosecution for those using small quantities of soft drugs is vanishingly low.

But the most comprehensive policy comes from Portugal. In 1997 opinion polls rated drug use the country's biggest social problem. Now, 12 years since the decriminalisation of personal use of small amounts (meaning less than ten days' worth) of all drugs, it ranks 13th. All parties now support the policy of treating drug use as a health issue, not a crime. HIV rates have plummeted, too, says João Goulão, the national drugs co-ordinator.

But decriminalisation is not the same as legalisation. Portugal uses "dissuasion boards", made up of doctors, psychologists and other specialists. They aim to get addicts into treatment and to prevent recreational users from falling into addiction. When necessary they can impose fines and community work. By removing the "fear and stigma" of criminal punishment, says Mr Goulão, drug users are encouraged to seek the help they need.

Brendan Hughes, of the Lisbon-based European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), an agency of the European Union, says Portugal stands out for its "consistency and comprehensiveness". Other countries wanting to focus on health have only "tweaked" their criminal laws, he says.

In 2009 the Czech Republic decriminalised possession of most drugs along Portuguese lines. In December it went further, fully legalising medicinal cannabis. The plan is for imports—probably Dutch or Israeli—to be sold in pharmacies, says Jindrich Voboril, the head of the government drugs council. If that works, it will then license a number of competing companies to grow supplies locally.

The elusive molecules

The other big policy innovation in Europe has been to drop punitive policies in dealing with heroin and cocaine addiction, in favour of harm reduction. But a much bigger worry now is the rise of legal highs. The EMCDDA reports that a new psychoactive substance is found weekly, on average. These concoctions are openly marketed as "plant food" or "research chemicals". Mephedrone and ketamine—both legal highs until recently—have become mainstream clubbing drugs in Britain, taken alongside ecstasy and cocaine. Tim Hollis of the British Association of Chief Police Officers says that the police are "flat-footed" trying to keep up. Many of the new drugs do more harm than the illegal narcotics that they are replacing.

The legal regime governing cocaine is more controversial. Some countries, including Portugal, Mexico and Colombia, have decriminalised the possession of small doses of the drug, referring users to treatment rather than giving them a criminal record. But the harm cocaine does to health and its addictive nature make governments queasy about legalising its sale.

High in the Andes, regulated cultivation for “traditional” use (coca leaves give a mild caffeine-like buzz and suppress hunger, cold and altitude sickness) has been going on for decades. In Trinidad Pampa, a tiny village in Bolivia’s mountainous Yungas region, the hillsides are divided into neat terraces, where coca saplings are planted after being cultivated in beds enriched with rice-husks and sand. The whole village is involved. Children and even toddlers help their parents.

The 1961 narcotics convention banned coca along with cocaine (albeit with a long transitional period). But on January 11th Bolivia became the first country to negotiate a partial opt-out from the treaty. It was readmitted with a get-out clause for coca, having resigned last year over the ban on what its president, Evo Morales, calls the “sacred leaf”. A former coca-grower and union leader, he enjoys grandstanding against America (he expelled its ambassador in 2008 along with DEA officials).

In 2004, following protests by coca growers led by Mr Morales (then in opposition), Bolivia brought most of its 28,000 hectares of coca fields within the law. The government claims that increases in population and heavy use among miners and truckers justify the extra growing-permits. But sales figures suggest that in fact most coca goes elsewhere. Leaves must be sold in state-controlled markets, which in 2011 bought just over 18,000 tonnes from farmers. The UN estimates that potential production was about 48,000 tonnes. Most of the missing 30,000 tonnes leaked into the cocaine business, reckons César Guedes, head of the UN drugs office in La Paz.

This alarms Bolivia’s neighbours. Brazil believes it has the world’s second-biggest market (after America) for cocaine and the largest for crack; most of Brazil’s cocaine imports come from Bolivia. Usage of crack is up in Argentina, too.

Yet keeping Bolivia outside the treaty was “infinitely more dangerous” than bringing it in, says an official from a nearby country. Supply increased a little after the regime was relaxed in 2004, before levelling out in 2008 and dropping by about 12% in 2011, to beneath 2004 levels. Letting farmers get on with it has allowed Bolivia to focus scarce police resources on organised crime. In 2011 it destroyed more than 5,000 cocaine processing factories, five times more than a decade earlier (though that could also show that trafficking has increased). Coca farmers still have a difficult relationship with the authorities in some parts of the country, but the abuses that accompanied the military-led eradication efforts of the 1990s have lessened.

Partial reforms have their limits. Most drug crime is not cannabis-related. Moving from punishment to harm reduction may help drug users, but it leaves gangsters in control of supplies and revenues. Many countries still stick to prohibition.

The votes in Colorado and Washington were hardly imaginable ten years ago and make deeper change likely. They weaken the Single Convention, the illegal trade, and the prohibition industry that feeds on it.

Peter Reuter, an expert at the University of Maryland, says America should "evaluate the experiment and put up with international condemnation for a couple of years." Even that counts as progress.

The Boston Globe (The Boston Globe)

- Clipping Loc. 232-74 | Added on Saturday, March 10, 2012, 06:58 AM

New files show more Muslim NYPD targets Those watched had been here for generations The police efforts kept the city safe, were legal, and were not based on religion, Mayor Michael Bloomberg has said. By Adam Goldman and Matt Apuzzo | 827 words NEW YORK - The New York Police Department collected information on businesses owned by second- and third-generation Americans specifically because they were Muslims, according to newly obtained secret documents. They show in the clearest terms yet that police were monitoring people based on religion, despite statements from Mayor Michael Bloomberg to the contrary. The police department has faced criticism from Muslims, lawmakers, and even the FBI for widespread spying operations that put entire neighborhoods under surveillance. Police put the names of innocent people in secret files and monitored the mosques, student groups, and businesses that make up the Muslim landscape of the northeastern United States. Bloomberg has defended his department's efforts, saying they have kept the city safe, were legal, and were not based on religion. "We don't stop to think about the religion," Bloomberg said at a news conference in August after the Associated Press began revealing the spying. "We stop to think about the threats and focus our efforts there." But in late 2007, plainclothes officers in the department's secretive Demographics Unit were assigned to investigate the region's Syrian population. Police photographed businesses and eavesdropped at lunch counters and inside grocery stores and pastry shops. The resulting document listed no threat. And though most people of Syrian heritage living in the area were Jewish, Jews were excluded from the monitoring. "This report will focus on the smaller Muslim community," the report said. Similarly, police excluded the city's sizable Coptic Christian population when photographing, monitoring, and eavesdropping on Egyptian businesses in 2007, according to the police files. "This report does not represent the Coptic Egyptian community and is merely an insight into the Muslim Egyptian community of New York City," the police department wrote. Many under surveillance were American-born citizens whose families have been here for the better part of a century. "The majority of Syrians encountered by members of the Demographics Unit are second- or even third-generation Syrian Americans," the Syrian report said. "It is unusual to encounter a first generation or new arrival Syrian in New York City." The Demographics Unit was conceived in secret years ago as a way to identify communities where terrorists might hide and spot potential problems early. If the plainclothes officers, known as "rakers," overheard anti-American sentiment or violent rhetoric, they flagged it for follow-up investigation. If police, for example, received a tip that an Egyptian terrorist was plotting an attack, investigators looking for him would have the entire community already on file. They would know where he was likely to pray, who might rent him a cheap room, where he would find a convenient Internet cafe, and where he probably would buy his groceries. As a result, many people were put into police files, not for criminal activities but because they were part of daily life in their neighborhoods. Shopkeepers were named in police files, their ethnicities listed. Muslim college students who attended a rafting trip or discussed upcoming religious lectures on campus were cataloged. Worshipers arriving at mosques were photographed and had their license plate numbers collected by

police. The Demographics Unit is one example of how, since the 2001 terrorist attacks, the police department has transformed itself into one of the most aggressive domestic intelligence agencies in the country, operating with little oversight and in areas outside the city such as New Jersey. Speaking Friday, Bloomberg said: "We're doing the right thing. We will continue to do the right thing. We do take every precaution possible to not do anything that ever violates the law. You've just got to be very careful not to take away the rights that we're trying to protect." And although civil rights lawyers disagree, the legal question is not expected to be settled soon. In the meantime, the police department has become a flashpoint in the debate over the balance between civil rights and security. US Attorney General Eric Holder told Congress on Thursday he was disturbed by what he has read about the police department's surveillance of mosques and Islamic student organizations in New Jersey. "And these are things that are under review at the Justice Department," he said. Police said they cannot afford to become complacent or ignore the reality that Islamic terrorists carried out the 2001 attacks and others. But if Muslim neighborhoods feel unfairly singled out, it could reinforce the perception that the United States is at war with Islam, which Al Qaeda has used as a major recruiting pitch. Since the AP began reporting on these efforts last year, Bloomberg and the police department have offered varying explanations for the clandestine efforts. At first, police spokesman Paul Browne denied the Demographics Unit existed. When documents proved that it did, Police Commissioner Ray Kelly said his department only follows investigative leads. For instance, after Moroccans were involved in terrorist attacks overseas, the police department photographed and eavesdropped in New York businesses where Moroccans might work, shop, and eat. Asked during a City Council meeting in October whether the police department maintained similar documents for Irish and Greek neighborhoods, Kelly replied: "We don't do it ethnically. We do it geographically."

The Boston Globe (The Boston Globe)

- Clipping Loc. 1226-58 | Added on Saturday, April 14, 2012, 09:43 AM

OPINION Masters in the art of diplomacy By Nicholas Burns | 707 words HENRY A. Kissinger and James A. Baker III, now octogenarians, returned to the public spotlight recently to remind us of the timeless virtues of diplomacy, negotiations, and statecraft in a complex and troubled world. Their message was important in this election year. After wars in Iraq and Afghanistan and the pursuit of terrorists on every continent over the last decade, these two celebrated Americans recalled that we can sometimes get our way not just by force but with diplomacy. No two public figures better exemplify the American tradition in that ancient art than Baker and Kissinger, both honored by Harvard University during the past two weeks. They share a unique position in our modern history. Both transformed the international landscape in historic ways. Kissinger's opening to China in 1972 remains one of the most important pivot points of the last half century in ending the isolation between Beijing and Washington and setting the foundation for the extraordinary relationship between the two great powers of the 21st century. Baker masterminded the dramatic and peaceful end to the Cold War in reunifying Germany as a member of NATO. Neither could have succeeded without the deep experience and strategic dexterity of their presidents. Richard Nixon and Kissinger were an unusual team who painted in bold, sweeping flourishes. By growing closer to Mao and Chou En-Lai and strengthening American resolve in both Asia and Europe, they maneuvered the Soviet leadership to give up the illusion of a communist victory in the Cold War.

Baker profited from the closest relationship between a president and secretary of state in American history. He had been best friends with George H.W. Bush, his Houston tennis partner and godfather to his daughter, for 35 years. That alliance made Baker an exceptionally powerful secretary of state as he assembled and steered the Gulf War coalition that defeated Saddam Hussein and then shifted to oversee the American triumph in the fall of the Soviet Union. They could not be more different. Kissinger is one of the great intellectual figures in American diplomatic history. He was a brilliant Harvard professor of the 1950s and '60s whose scholarship on European statecraft prepared him well for his chessboard struggles with Mao, Brezhnev, Ho Chi Minh, and other giants of the communist world. His 1994 book, "Diplomacy" is considered one of the finest ever written on that vast subject by an American. At 88, he has been consulted by every president from Eisenhower to Obama and still enjoys global cachet. His recent book on China has been influential in this country and around the world. Baker, nearing 82, has a different but no less important legacy. He managed five presidential campaigns and the 2000 recount in Florida. He was an impressive and protean figure in Washington, serving as White House chief of staff and treasury secretary for Ronald Reagan and then secretary of state for Bush. Baker was not a scholar of international politics, but he combined a sharp, lawyerly mind with canny political smarts to become a brilliant negotiator. He went toe to toe with Gorbachev and Saddam Hussein and maneuvered the Israelis and Palestinians to their first peace conference at Madrid. Always the best prepared person in the room, he is widely viewed, by Democrats and Republicans alike, as the most effective public servant of his time. Neither was perfect. Nixon and Kissinger should have ended the Vietnam War well before 1973. Bush and Baker's decision not to intervene in Bosnia in 1991 missed an opportunity to end that vicious war at its start. But their lasting impact has been, by a long stretch, on the positive side of history. America rightly honors its great generals who protect the nation and win our wars. We should also recognize our great diplomats who outwit our enemies, open new roads to the future, and win the peace. Baker reminded Harvard students that diplomacy is a "national asset," needed now more than ever. Harvard and our country are right to pause and honor two unusually accomplished secretaries of state, who have truly earned a legacy of American purpose and achievement on the world's biggest stage. Nicholas Burns is a professor of the practice of diplomacy and international politics at Harvard's Kennedy School of Government. His column appears regularly in the Globe.

=====

The Boston Globe (The Boston Globe)

- Clipping Loc. 90-139 | Added on Monday, April 16, 2012, 07:22 PM

Millionaires from Mass. join call to raise their tax rates By Callum Borchers | 1089 words Philippe Villers was a little boy in 1940, when his family escaped from Paris only hours before the Nazi invasion and immigrated to the United States. From the harrowing flight of a wartime refugee, Villers went on to earn degrees from Harvard and MIT and to cofound Computervision, a former Fortune 500 company that

made him rich. "This country has been good to me," Villers, 76, said. "I'd like to do my part to give back." As part of his effort to give back, Villers has made an unusual request to the federal government: Raise my taxes, please. Villers is one of a handful of Massachusetts members of a national organization called Patriotic Millionaires for Fiscal Strength, which supports a 30 percent effective tax rate on million-dollar annual earners under the "Buffett Rule." The Senate will hold a procedural vote on the proposal Monday. The US tax code's top income tax rate is 35 percent but imposes only a 15 percent levy on capital gains on investments, where many affluent Americans earn much of their money. Billionaire Warren Buffett, for whom the rule is named, has complained publicly that he pays an effective tax rate of just 17.4 percent, while his secretary pays 35.8 percent. Senator Scott Brown has said he opposes the Buffett Rule and is expected to vote against it. The bill is not expected to garner enough votes to prevent a Republican filibuster. President Obama and presumptive Republican presidential nominee Mitt Romney have taken opposing stances on the measure. Obama last week said the Buffett Rule is a matter of "basic fairness," while Romney characterized it as an effort to "find the very most successful in our country and say they're bad guys." Villers and his fellow Patriotic Millionaires say they do not feel cast as villains. "Not at all," said Arnold Hiatt, the former chief executive of Stride Rite. "The bad guys are the ones who don't want to share their marbles. They must have had trouble as children." Hiatt said he remembers paying a 70 percent tax above a certain income threshold in the 1970s and that he was "delighted to pay that." "It's not all about income," Hiatt said. "That's not what this democracy was built on. I always thought it was built on fairness." Romney says higher taxes on top earners will further stunt a sluggish economic recovery. "Does anyone think that raising taxes is going to create more jobs?" he said last Wednesday at a rally in Warwick, R.I. "It's time to recognize that the success of some makes us a more prosperous nation." But Paul Egerman, who made his millions as founder of the digital medical transcription company eScription, argues that individual windfall seldom assists others. He estimates that tax cuts under President George W. Bush have saved him roughly \$10 million over the last decade and asserts the money has helped no one but himself. "It's not like I took the tax cuts and went out and hired people," Egerman said. Hiatt echoed Egerman's sentiment, saying, "It is a myth that rich people create jobs. Good executives create jobs." "When we created jobs at Stride Rite, it wasn't because I earned more money," he added. "It doesn't trickle down, unless you're talking about private jets and Rolls-Royces for executives." The Joint Committee on Taxation estimates the Buffett Rule would generate \$47 billion over the next decade, money the Obama campaign calls a "key step to reduce the deficit." But with the Congressional Budget Office forecasting a 10-year deficit increase of \$6.4 trillion under the president's spending plan, Republicans argue Buffett Rule revenue would be negligible. In a speech last week, Obama conceded the Buffett Rule "won't do enough to close the deficit." "But the notion that it doesn't solve the entire problem doesn't mean that we shouldn't do it at all," he said. "There are enough excuses for inaction in Washington. We certainly don't need more excuses." As he stated his case Wednesday at the Eisenhower Executive Office Building, Obama was flanked by a small group from Patriotic Millionaires, along with aides. More sat in the audience, including Brookline resident Robert S. Bowditch, founder of the property management company MB Management. Bowditch said he was one of about three dozen group members who traveled to Washington to hear the president and to exchange ideas with Obama administration officials. The millionaires, Bowditch said, don't agree with the administration, or with each other, on every subject. "We're not a group with a single ideology or outlook on everything, but we're united on this issue of tax policy," said Bowditch,

who added that his effective tax rate is just 15 percent, while his assistant's is 29 percent. Bowditch, Egerman, Hiatt, and Villers are Democratic donors, though on varying scales. During the current election cycle, Egerman has contributed more than \$400,000 to Democrats and liberal causes. Hiatt has given \$80,400; Villers \$54,800. Bowditch's only gift has been \$2,500 to Senate candidate Elizabeth Warren, who is challenging Brown. Bowditch said he is concerned about the rising cost of higher education, which is "making it more and more difficult for even middle-class families to afford college." He recalled paying his way through law school in the 1960s, when his household's sources of income were his wife's job at a pizza parlor and his weekend gigs in a rock band. "It's hard to imagine being able to do that today," Bowditch said. The Obama campaign last week unveiled an interactive website designed to illustrate the potential impact of Buffett Rule revenue; citing IRS data, it showed the additional yearly taxes paid by just one of the nation's 400 highest earners could fund 5,400 Pell Grants for college students. Egerman likened paying higher taxes to a long-term investment in the country, saying people who don't need more money have a duty to improve the lives of people who do. "It's incumbent upon people like me, who've been successful, to pay it forward so the next kid has the same opportunity I had," Egerman said. Bowditch said the Buffett Rule could help millionaires, too, arguing that "if you want a good country, you have to pay for it." "I don't want to be a rich guy in a second-rate country," he said. And Villers, now devoting much of his time to Families USA, the nonprofit health care advocacy group he and his wife, Kate, founded in 1982, said the Buffett Rule is neither a catch-all solution nor a merely symbolic gesture. "It's a first step in reversing the trend of increasing the wealth of the top 1 percent and decreasing wealth for the rest of America," Villers said. Callum Borchers can be reached at callum.borchers@globe.com. Follow him on Twitter @callumborchers.

=====

The Boston Globe (The Boston Globe)

- Clipping Loc. 7013-94 | Added on Sunday, April 22, 2012, 09:48 PM

Nothing to fear What if the world is safer than we think? By Thanassis Cambanis | 1815 words President Obama and his presumptive challenger Mitt Romney agree on at least one important matter: the world these days is a terrifying place. Romney talks about the "bewildering" array of threats; Obama about the perils of nuclear weapons in the wrong hands. They differ only on the details. A bipartisan emphasis on threats from outside has always been a hallmark of American foreign-policy thinking, but it has grown more widespread and more heightened in the decade since 9/11. General Martin E. Dempsey, chairman of the Joint Chiefs of Staff, captured the spirit when he spoke in front of Congress recently: "It's the most dangerous period in my military career, 38 years," he said. "I wake up every morning waiting for that cyberattack or waiting for that terrorist attack or waiting for that nuclear proliferation." The unpredictability and extremism of America's enemies today, the thinking goes, makes them even more threatening than our old conventional foes. The old enemy was distant armies and rival ideologies; today, it's a theocracy with missiles, or a lone wolf trying to detonate a suitcase nuke in an American city. But what if the entire political and foreign policy elite is wrong? What if America is safer than it ever

has been before, and by focusing on imagined and exaggerated dangers it is misplacing its priorities? That's the bombshell argument put forth by a pair of policy thinkers in the influential journal *Foreign Affairs*. In an essay entitled "Clear and Present Safety: The United States Is More Secure Than Washington Thinks," authors Micah Zenko and Michael A. Cohen argue that that American policy leaders have fallen into a nearly universal error. Across the ideological board, our leaders and experts genuinely believe that the world has gotten increasingly dangerous for America, while all available evidence suggests exactly the opposite: we're safer than we've ever been. "The United States faces no serious threats, no great-power rival, and no near-term competition for the role of global hegemon," Cohen says. "Yet this reality of the 21st century is simply not reflected in US foreign policy debates or national security strategy." It might seem that the extra caution couldn't hurt. But Zenko and Cohen argue that excessive worry about security leads America to focus money and attention on the wrong things, sometimes exacerbating the problems it seeks to prevent. If Americans and their leaders recognized just how safe they are, they would spend less on the military and more on the slow nagging problems that undermine our economy and security in less dramatic ways: creeping threats like refugee flows, climate change, and pandemics. More important, the United States would avoid applying military solutions to non-military problems, which they argue has made containable problems like terrorism worse. In effect, they argue, the United States should keep a pared-down military in reserve for traditional military rivals. The bulk of America's security efforts could then be spent on remedies like policing and development work — more appropriate responses to the terrorism and global crime syndicates that understandably drive our fears. Why should Americans feel so secure right now? Zenko and Cohen write that a calm appraisal of global trends belies the danger consensus. There are fewer violent conflicts than at almost any point in history, and a greater number of democracies. None of the states that compete with America come close to matching its economic and military might. Life expectancy is up, and so is prosperity. As vulnerable as the nation felt in the wake of 9/11, American soil is still remarkably insulated from attack. Nonetheless, more than two-thirds of the members of the Council on Foreign Relations — as good a cross-section of the foreign-policy brain trust as there is — said in a 2009 Pew Survey that the world today was as dangerous, or even more so, than during the Cold War. Other surveys of experts and opinion-makers showed the same thing: the overwhelming majority of experts believe the world is becoming more dangerous. Zenko and Cohen claim, essentially, that the entire foreign policy elite has fallen prey to a long-term error in thinking. "More people have died in America since 9/11 crushed by furniture than from terrorism," Zenko says in an interview. "But that's not an interesting story to tell. People have a cognitive bias toward threats they can perceive." The paper's authors are, in effect, skewering their own peers. Zenko is a Council on Foreign Relations political scientist with a PhD from Brandeis. Cohen (a colleague of mine at The Century Foundation, and a previous contributor to *Ideas*) worked as a speechwriter in the Clinton administration and has been a mainstay in the thinktank world for a decade. Zenko and Cohen point out that there are plenty of good-faith reasons that experts tend to overestimate our national risk. A raft of psychological research from the last two decades that shows human nature is biased to exaggerate the threat of rare events like terrorist attacks and underestimate the threat from common ones like heart attacks. And security policy in general is extremely risk-averse: we expect our military and intelligence community to tolerate no failures. A cabinet secretary who pledged to reduce terrorist attacks to just a few per year would not last long in the job: the only acceptable goal is zero. Electoral politics, of course, is greatest driver of what

Zenko and Cohen call “domestic threat-mongering.” In an endless contest for votes, Republicans do well by claiming to be tough in a scary world. Democrats adopt the same rhetoric in order to shield themselves from political attacks. Both sides see an advantage in a politically risk-averse strategy. If a minor threat today turns into a sizeable one tomorrow, better to have sounded the alarm early than to have appeared naïve or feckless. But Zenko and Cohen make the politically uncomfortable argument that it’s wrong to govern based on the prospect of unlikely but extreme events. Instead of marshalling our resources for the 1 percent risk of a nuclear jihadist, as Vice President Dick Cheney argued we should, we should really set our security policy based on the 99 percent of the time when things go America’s way. They point to the number of wars between major states and the number of people killed in wars every year, both of which have been steadily declining for decades. They also point to the historical, systematic growth of the global economy and spread of financial and trade links, which have undergirded an unprecedented period of peace among rival great powers and within the West. Their thinking follows in the footsteps of a small but persistent group of contrarian security scholars, who have noted the post-9/11 spike in America’s already long history of threat exaggeration. Best known among them is Ohio State University political scientist John Mueller, who has argued that American alarmism about terrorism can cause more harm to our well-being and national economy than terrorism itself. In that vein, Zenko and Cohen claim that America’s over-militarization prompts avoidable wars and has in fact created far more problems than it solves, from terrorist blowback to huge drains on the Treasury. The implications, as they see it, are clear: spend less money on the military; spend more on the boring, international initiatives that actually make America safe and powerful. Zenko’s favorite example is loose nukes, which pose hardly any threat today but were a real cause for concern as the Soviet Union collapsed in the early 1990s, leaving poorly secured weapons across an entire hemisphere. “There was a solution: limit nuclear stockpiles and secure them,” Zenko says. “We took common-sense steps, none of which involved the US military. We send contractors to these facilities in Russia, and they say ‘The fence doesn’t work, the cameras don’t work, the guards are drunk.’ It’s cheap, and it works. This is what keeps us safe.” Not everyone agrees. Robert Kagan, the most influential proponent of robust American power, argues that America is safe today precisely because it throws its military might around. President Obama said he relied for his most recent state of the union address on Kagan’s newest book, “The World America Made.” Mackenzie Eaglen, a defense expert at the American Enterprise Institute, says America benefits even when it appears to overreact. According to this thinking, even if the Pentagon designs the military for improbable threats and deploys at the drop of the hat, it is performing a service keeping the world stable and deterring would-be rivals. Like most establishment defense thinkers, Eaglen believes American dominance could easily and quickly come to an end without this kind of power projection. “Power abhors a vacuum,” she says. “If we don’t fill it, others will, and we won’t like what that looks like.” Other critics of Zenko and Cohen’s argument, like defense policy writer Carl Prine, say the comforting data about declining wars and violent deaths is misleading. Today’s circumstances, they argue, don’t preclude something drastic happening next — say, if China, or even a rising power like Brazil, veers into an unpredictably bellicose path and clashes violently with American interests. Simply put, safe today doesn’t mean safe tomorrow. Even if Zenko and Cohen are right, however, and the big-military crowd is wrong, it is nearly impossible to imagine a spirit of “threat deflation” taking hold in American politics. The already alarmist expert community that shapes US government thinking was further electrified by 9/11. Anyone in either party who argues for a leaner

military, or pruning back intelligence infrastructure, risks being portrayed as inviting another attack on the homeland. The result is an unshakeable institutional inertia. To get a sense of what they're up against, listen to James Clapper, the director of national intelligence, presenting the "Worldwide Threat Assessment" to Congress, as his office does every year. The latest version, in January this year, reads like a catalogue of nightmares, describing macabre possibilities ranging from Hezbollah sleeper cells attacking inside America to a cyberattack that could turn our own infrastructure into murderous drones. Are these science fiction visions, or simply the wise man's anticipation of the next war? It's impossible to know, but one thing is striking: there's no attempt in the intelligence czar's report to rank the threats or assess their real likelihood. He simply and clinically presents every possible, terrifying thing that could happen, and signs off. It's truly frightening reading. This is what Zenko dismissively deems the "threat smorgasbord." It makes clear how high the stakes are in planning for war and terrorist attacks, and how much emotional power the issue has. The reasonable thing to do might simply never be politically palatable. The current debate about Iran's nuclear intentions is a perfect example, says Eaglen, who debated Cohen about his thesis on Capitol Hill in April. "I can say Iran's a threat, Michael can say it's not," she says. "But if he gets it wrong, we're in trouble." Thanassis Cambanis, a fellow at The Century Foundation, is the author of "A Privilege to Die: Inside Hezbollah's Legions and Their Endless War Against Israel" and blogs at . He is an Ideas columnist.

=====

~~The Boston Globe (The Boston Globe)~~

~~- Clipping Loc. 6648-6738 | Added on Sunday, June 10, 2012, 11:29 PM~~

~~Obama? Romney? How about both? The strange but serious case for a two-headed American executive branch, and what it says about our broken system By Leon Neyfakh | 2023 words The race for the American presidency is a contest unique in its stakes, ferocity, and cost. Whoever prevails becomes the single most powerful person in the country—the one who gets to move into the White House, the one who gets to stand before the nation every January and deliver the State of the Union address. The winner wins alone: That's why there's one big desk in the Oval Office. That's why there's one executive suite in Air Force One. Now imagine there were two. Two big desks. Two sets of keys to Camp David. Two presidents, instead of just one. And imagine that made everything about our government work better. "People are so used to our system that they haven't thought of this alternative," said David Orentlicher. "But right now we are giving so much power to one person—we're giving 100 percent of the power to someone who may be elected with barely 51 percent of the vote." Orentlicher, a professor at the Indiana University School of Law and a former state representative, lays out his case in a new book to be published next summer by NYU Press. In the book, "Two Presidents Are Better Than One: The Case for a Bipartisan Executive Branch," Orentlicher makes the startling argument that when the Founding Fathers debated the leadership structure of the new United States, they picked the wrong option: a single president instead of a "plural executive" that would spread the power around. According to Orentlicher, in setting up the presidency as an office with a maximum occupancy of one,~~

the framers of the Constitution unknowingly laid the groundwork for a structure that, centuries later, would lead to a too powerful executive branch and seemingly intractable partisan divisions. It might seem that a powerful presidency would be a recipe for effective governance, but as Orentlicher sees it, precisely the opposite has turned out to be true in the United States, with the modern executive branch growing so strong that an opposition party's best political strategy is simply to obstruct the president at any cost. Orentlicher points to Senate minority leader Mitch McConnell, who infamously asserted in 2010 that the GOP's top priority over the next two years would be to make Barack Obama a one-term president. His top goal wasn't to pass laws, or work for his constituents, but to try as hard as possible to deny an elected president the ability to claim any accomplishments. This dynamic has virtually halted progress in Washington. And as Orentlicher sees it, a bipartisan presidency is precisely what's needed to shake it loose. The presidential race would be less divisive if the top two winners were guaranteed a slot. And a Republican and a Democrat who held office at the same time would be forced to find common ground or risk leaving office with both their parties having achieved nothing. Orentlicher's idea is one of several far-out proposals being floated by legal scholars who believe the United States government has become so dysfunctional that it requires radical restructuring. Jacob Gersen of Harvard Law School has made the case for "unbundling" the executive branch, getting rid of the presidency as it currently exists, and allowing voters to directly elect specialized executives to run the economy, agriculture, military affairs, and so on. Meanwhile, Sanford Levinson of the University of Texas at Austin School of Law has argued for drawing up an entirely new constitution. Most legal scholars and political scientists dismiss such ideas as outlandish and impractical, and even Orentlicher admits the chances of his proposal being adopted are just about zero. But they offer a fresh lens on a problem we all complain about—and may offer useful guidance for how we should go about trying to reform our government.

*** We're used to seeing our presidential candidates campaign against one other so intensely that, by the time the show's over, it's difficult to imagine they could ever sit in the same room. But much of this apparent enmity is a product of the campaign itself, which compels political rivals to distinguish themselves as starkly as possible, despite the fact that at a basic level, they both want to make America safer, more prosperous, and more influential in the world. Their differences on taxes usually amount to a few percentage points; their moral disagreements, though serious, take place over a handful of wedge issues carefully selected to motivate voters. With two presidents in the White House, Orentlicher writes in his book, our leaders would be forced to spend their time building on all the things they have in common, instead of pretending they have fundamentally opposed visions for the country. And their parties would have to fall in line, or suffer. "Presidents want to leave a legacy," Orentlicher said. "With two of them in office, their choice is to either work with their partner, or squander their presidency." The proposals that emerge from such a partnership—rather than immediately becoming targets for filibusters and attacks from the opposing party once they arrive in Congress—have to be considered seriously by both sides. "Right now what happens is the legislative proposals that come out of the White House are Democratic proposals, so if you're a Republican in Congress, even if you think the president is right, as many of them do, you know that if you cooperate with him and the legislation gets passed, the president's going to get all the credit," Orentlicher said. "The Republicans get nothing out of cooperating, so the only way they can benefit is by disagreeing with the president and hoping the president's policies fail." This is not how the framers envisioned the branches relating to each other. When they conceived the office of the presidency in 1787, they envisioned something much less

influential: The president was to be responsible for implementing policy, but setting it was the job of Congress. This started to change during the first half of the 20th century, with Franklin Delano Roosevelt's presidency generally considered by historians and legal scholars to have marked the point of no return. "Government responsibility has grown in volume, scope, and complexity," said David E. Lewis, codirector of the Center for the Study of Democratic Institutions at Vanderbilt University. "What that means is that Congress has had to rely on the executive branch to do a lot of very important policy-making." He added that the rise of the United States as a superpower on the world stage also made the executive branch more important as a decision-making body. "By necessity, the president has become a significantly more powerful actor, particularly in foreign policy, than the founders anticipated." Before he became a law professor, Orentlicher held a seat in the Indiana State House, and it was that experience that got him thinking about radical ways in which the federal government could be restructured. "I believed I was going to be bipartisan, and then I got into the Legislature and it just didn't happen.... I thought, 'What is it about the structure of our political system that drives people to be so partisan?' And that's what led me to think that the presidential election is really what drives so much of our partisan behavior." As Orentlicher considered other possibilities, he found himself looking to the model of Switzerland, where a seven-person Federal Council is elected by parliament every four years. "In Switzerland, you've got people from five different parties representing 80 percent of the electorate. The result is that many more people in Switzerland feel like they have a voice, even if they don't get everything they want." A two-person version of that arrangement would be relatively simple: Parties would put forward their nominees as they do now, and then the top two vote-getters in the general election would be declared the winners. This would make a much larger portion of the electorate feel like they have a representative in the White House, and it would open up the executive branch to third party candidates by making it possible for their supporters to vote for them without worrying that they've wasted their vote, or thrown the election to the wrong candidate. At heart, Orentlicher's idea amounts to a very specific diagnosis of why America has become so partisan—and it's not one that everyone agrees with. Many experts say it ignores the complex factors that have forced the two major parties further apart, including economic inequality, gerrymandering, and the structure of the modern primary system. But Orentlicher's argument is that it's very hard to do anything about all those underlying causes, whereas setting up a two-person executive branch is a single administrative act that would encourage cooperation without requiring American politics to become magically less polarized. Some call that line of reasoning naive. "All you're going to do is make the executive branch paralyzed internally," said Heather Gerken, a professor at Yale Law School who specializes in the American election system. She added: "The impulse of one party to veto the other side may diminish, but they'll just have another set of things they'll be fighting and politicking over, like who's going to win the next Congress.... They're still going to be at war with one another. It does take one prize off the table, but these guys aren't just in it because they care about who wins the presidency. They're in it because they care about their own power." Even those who agree that polarization and expansion of presidential power are two of the main problems facing our government don't see the two-president solution as a viable way out. "We do have a problem today with undue concentration of power in the presidency—it's deviated significantly from the constitutional model and I think it deviates from the plan in a way that people should find alarming," said James Gardner, a professor at SUNY Buffalo Law School. But installing two presidents is a risky solution that might only underscore the depth of the existing

divisions, he said, pointing to the example of ancient Rome, when one attempt at three-way power sharing ended in Caesar's dictatorship, and another in civil war. "The lesson, I think, that people have drawn from that—and certainly, the founding generation was very familiar with these historical examples—was that shared executive power is an unstable arrangement," Gardner said. *** One thing most of Orentlicher's critics agree with him on is that the American presidency has indeed become too powerful relative to the other branches of government—and that the intensity of the race to capture it has exacerbated partisan divisions. And it's not going to be easy to reverse this movement, experts say: For the most part, the power that has built up in the executive branch has been placed there by Congress, which over the years has more or less willingly handed over its policy-making function to the president in exchange for relative immunity from blame when things go wrong. "The real question," said Sanford Levinson, "is does Congress want to take back these powers?" Then there's this question: Do we, the voters, want them to? Do we want to entrust America's big decisions to hundreds of squabbling legislators working with a diluted executive leadership—or do we prefer having a strong executive at the center of our government, a single individual whose power gives us license to either lay our troubles at his feet or look to him for hope? The problem, in other words, may be ours. "It's always frustrating to me how high the expectations are for the presidency," said David Lewis. "If we had lower expectations about what presidents would accomplish—if we didn't hold them responsible for everything that happens in government—then the incentives for members of Congress to try to obstruct presidential action would be less intense." All of which is to say that we may need to change how we think about the president, even if we accept that we will only ever have one at a time. It's precisely in this way that proposals like Orentlicher's—fanciful, disorienting, even surrealistic—can be transformative. Ultimately, it may shed light not on the ideal number of chairs at the head of the table in the Situation Room, but what we the people should expect from the one person already sitting there. Leon Neyfakh is the staff writer for Ideas. E-mail lneyfakh@globe.com.

=====

The Boston Globe (The Boston Globe)

- Clipping Loc. 1327-59 | Added on Thursday, June 14, 2012, 09:42 PM

OPINION An effective Senate needs filibusters By Richard A. Arenberg | 685 words As the inept vice president on HBO's "Veep," Julia Lewis-Dreyfus is fighting for a never quite defined filibuster reform bill. It's the perfect foil for comedy, frustratingly unattainable, but directed at a target apparently richly deserving of ridicule. In the real world, Majority Leader Harry Reid, frustrated by the latest Republican filibuster, recently apologized for failing to support filibuster reform. In addition, Common Cause has filed a lawsuit claiming that Rule XXII, which requires 60 votes to cut off a filibuster, is unconstitutional. The suit claims, "The principle of majority rule is so basic to the concept of a democratically elected legislative body that it did not need to be expressly stated in the Constitution." The federal courts are unlikely to insert themselves into a controversy about Senate rules. If they do, they are unlikely to buy the assertion that the Constitution, which explicitly grants the Senate the right to write its own rules, is

meant to imply that only simple majority rule will do. And the majority leader was probably not signaling a softening of his opposition to elimination of the filibuster. It is one thing to acknowledge that some reforms are needed; it is quite another to radically change the structure of the Senate. The twin pillars on which the Senate is constructed are extended debate and virtually unfettered amendment. The right to speak in the Senate and the right to offer amendments to legislation, in most instances without any germaneness requirement, are central to the Senate's role. These are fundamental protections for the minority. John Adams, the Senate's first president, wrote, "Mankind will in time discover that unbridled majorities are as tyrannical and cruel as unlimited despots." In the House of Representatives, the majority tightly controls what bills will be considered, what amendments, if any, will be in order, how much debate will be permitted, and when and under what rules votes will occur. In the Senate, because of the right to filibuster, the minority must be consulted. Generally, to do anything of import in the Senate, at least some members of the minority party must be involved. It is undeniable that the Senate rules have been abused in recent years. Extreme partisanship has led to the exploitation of the filibuster, and use of the tactic has exploded. The current minority has used it repeatedly to try to block virtually all major legislation and many judicial and executive branch nominations. The productive functioning of the Senate requires a balance of rules protecting the minority and restraint in their use by senators. Senators have historically used these rules as leverage to foster pragmatism, compromise, and negotiation — in other words, what we call "legislating," but have reserved the actual use of the filibuster for major confrontations. What we have seen in recent years is bad behavior, no doubt. But the solution for partisan bad behavior is not rewriting the Senate rules. The House operates by majority rule. What extreme partisanship has meant there is that the majority ignores the minority, the leadership rarely speaks to each other, and the minority is nearly legislatively irrelevant. It would be tragic for the Senate and for the nation if, either at the hands of senators or the courts, the filibuster were swept away, leaving the Senate a shadow of the House. Still, reform is possible. The Senate has compromised and modified the filibuster before. For example, filibusters could be prohibited on the procedural motion to take up a bill. But those seeking to end the filibuster would rue the day. We need only recall how overzealous majorities in the Wisconsin legislature attacked collective bargaining, or in Virginia sought to impose mandatory vaginal probes on women seeking abortions. We can easily imagine efforts to overturn health reform, repeal financial reforms, cripple environmental regulation, scale back Medicare, privatize Social Security, or drill for oil in the Arctic Wildlife Refuge. If Mitt Romney is elected with a Republican Congress, without the historic protections in the Senate rules, where could a Democratic minority turn? Richard A. Arenberg, co-author of "Defending the Filibuster: The Soul of the Senate," is currently an adjunct professor at Brown University, Northeastern University, and Suffolk University.

The Boston Globe (The Boston Globe)

- Clipping Loc. 1095-1134 | Added on Sunday, July 08, 2012, 09:43 AM

OPINION Time to rethink notion of immigration quotas By Jeff Jacoby | 839 words THE SUPREME Court's recent decision in the Arizona immigration case settled the debate over whether states may criminalize

violations of federal immigration law (they may not) or require local police to check the immigration status of detainees they suspect of being in the country illegally (they may). But the ruling in *Arizona v. United States* did nothing at all to fix America's dysfunctional immigration system or clarify what to do about illegal immigrants. Neither did President Obama's announcement a few days earlier that most young illegals who were brought to the United States as children will be allowed to remain in the country without fear of deportation. Nor, for that matter, did the aggressive deportation activity that preceded it, which saw the Obama administration expel nearly 1.2 million illegal immigrants in three years, more than any president since the 1950s. For all the storm and stress of our national immigration debate, there has been remarkably little inclination to go beyond treating symptoms. Prescriptions range from the DREAM Act, which would make citizenship an option for hundreds of thousands of young illegals, to the hard-line approach of those who want to make it so difficult for undocumented immigrants to get work that they will "self-deport." But the basic architecture of US immigration policy itself — with its strangulating confusion of quotas and regulations, and its core assumption that immigration must be strictly limited and regulated — nearly always goes unchallenged. It shouldn't. For the problem with America's immigration system isn't that too many people are breaking the rules. It's that the rules themselves are irrational, illiberal, and counterproductive. Our national immigration policy seeks to control the number of migrants entering the United States, dictate which parts of the world they should come from, specify how closely they must be related to current American residents, and stipulate the kinds of jobs they are eligible to work. Exactly 226,000 green cards, for example, are available each year for what federal regulations classify as "family preference" immigrants. Within that category, there are precise sub-quotas, such as the 23,400 green cards reserved for married sons and daughters of US citizens, or the 65,000 green cards for the siblings of citizens. Employment-based green cards are even harder to come by. Only 140,000 are authorized per year; they too are divided into sub-quotas. In addition, no more than 7 percent of the total can be issued to immigrants from any single country. Byzantine in its intricacy, unrelated to real-world pressures of supply and demand, America's immigration policy inevitably results in huge backlogs. Some would-be immigrants must wait in line for decades to get a green card. For many others, there is no line to wait in. The result, not surprisingly, is a powerful incentive to enter illegally. Quotas and preferences have been basic features of our immigration policy for most of the past century. By now a majority of Americans may find it hard to imagine that a radically different approach might make more sense. Yet for most of US history, the government's approach was radically different. Immigration was largely unrestricted. Most peaceful foreigners were free to move to the United States. Certain categories of individuals might be excluded by law, but only because they were deemed genuinely undesirable — for instance, those suffering from a "loathsome or a dangerous contagious disease." Apart from the disgraceful and racist Chinese Exclusion Act of 1882, it wasn't until the 1920s that Congress began imposing broad arbitrary limits on the number of people who could come to America, or the countries they could come from. Driven by a nativist backlash to what had been the greatest wave of immigration in American history, Congress for the first time created the quotas that are now so entrenched in US immigration policy. Economically, such quotas are indefensible. Lowering immigration barriers is one of the most pro-growth measures any country can adopt. But our current quota-based system is politically harmful as well. Thanks to its capricious restrictions, immigrants are deemed "illegal" not because they are objectively unsuited to be Americans, but because they don't fit within a random numerical cap. What's worse, those very

restrictions create the distortions that induce so many industrious immigrants to cross the border unlawfully. That in turn generates the anger and suspicion that have made our immigration debates so rancorous. We have other options. We could scale back existing family and country preferences and scale up a lottery for immigrant visas. We could, as Nobel economist Gary Becker and others have suggested, sell green cards at set rates with no ceiling on the number of slots available. Though it seems politically impossible now, we could even return to open borders with common-sense exclusions. The point is that immigration policy needs a rethink more fundamental than the usual four corners of the debate. Nowhere is it carved in granite that immigration must be governed through quotas. America's immigration policy wasn't this dysfunctional in the past. The quota system is an old mistake, but it doesn't have to be our future. Jeff Jacoby can be reached at jacoby@globe.com. Follow him on Twitter @jeff_jacoby.

The Boston Globe (The Boston Globe)

- Clipping Loc. 991-1025 | Added on Monday, July 16, 2012, 08:31 AM

OPINION Uncle Sam subverts organic farming By John E. Sununu | 761 words Once upon a time, all you needed to be an organic farmer in America was a pair of Birkenstocks and a commitment to keep your products chemical-free. Those idealistic days of the 1990s are long gone. Today, organic farming is a \$30 billion industry dominated by Big Agriculture, backed up by Uncle Sam and a federal rulebook that gets longer every day. In the halls of Congress, the rhetoric never changes: Vote against new regulations and you side with big business; support tough rules and side with the little guy. But history tells us that, far from restraining the power of big companies, an overbearing regulatory bureaucracy benefits them just about every time. Last month, the White House released e-mails detailing the deal it cut with PhRMA — the drug industry's lobbying arm — to win support for Obamacare. And the size and market share of America's biggest banks have only grown since the passage of Dodd-Frank banking regulations. But if those examples hold too much partisan history for you, how about organic farming? As The New York Times reported recently, "the industry's image — contented cows grazing on the green hills of family-owned farms — is mostly pure fantasy." In 1997 the US Department of Agriculture first proposed a set of national standards for the industry. They became the law of the land in 2002. Today, the National Organic Standards Board keeps a list of 250 non-organic food additives that can be used under the "certified organic" label. That's three times the number listed just 10 years ago. As the Soviets proved time and again, a good central committee can kill just about anything. Only a few farmers saw this coming. I was in the US House when the national standards were first proposed, and around that time I was approached by a smart, passionate, organic farmer from Vermont. Like many of his peers, he was part of a local association that certified the practices of its own members. At that point, they were mostly concerned about two issues: the use of sludge from municipal waste water treatment plants as fertilizer and the use of microwaves to kill foodborne pathogens. They wanted the federal definition of "organic" to exclude both. As a consumer, neither practice particularly bothered me (although the less time spent thinking about organic fertilizer, the better). But as an American, my feelings were strong: The organic farmers of Vermont — or New Hampshire or anywhere else — can decide for themselves what constitutes "organic." I was happy to weigh in with the USDA on their behalf, but my larger message to them was a warning. Many of them mistook federal rules as a way to keep standards high

and the corporate world out. In reality, the federal stamp of approval helped big companies control the entire space. Local farmers might win the battle over sludge, but they would lose the war once power was firmly in the hands of a national regulator. Deciding what is allowed in ostensibly organic foods is easily the most important thing the National Organic Standards Board does, yet the list of allowed additives keeps getting longer at big farm companies' request. All regulators want to be efficient; many want to be liked. That makes them subject to influence by those they oversee. Regulators solicit endless input on questions ranging from how to organize the bureaucracy to what new rules should say. Inevitably, the biggest fish in the pond are best positioned to influence their regulators. It's called regulatory capture, and the likelihood of it should always be part of the debate. Pushing back against the regulatory tide isn't about favoring big business; it's about containing the power of the state. Just because something is a good idea (organic farming), doesn't mean it should be a law; and just because something should be a law doesn't mean it should be a federal law. Obsession with turning every good idea into law has also given us federal bans on two-gallon toilet flushes and Edison's incandescent bulb. The winners of this Washington micro-management have been the biggest plumbing and lighting manufacturers in the country. My friend from Vermont had a vision: organic products produced on local farms, delivered to appreciative customers at an honest price. When that dream was turned over to the federal government, it pretty much died. Whether tyranny flows from the monarch or the bureaucrat, big government never serves the little guy well — a lesson that organic farmers of America have learned the hard way. John E. Sununu, a regular Globe contributor, is a former Republican US senator from New Hampshire.