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Day of Anger Marchers, January 25, 2011

# Egypt in Transition

## The Third Republic

BY M. CHERIF BASSIOUNI

On January 25, 2011, the Egyptian people took to the streets and in 18 days were able to bring down the 30-year corrupt dictatorial regime of Hosni Mubarak, using entirely peaceful means. That revolution set the Arab Republic of Egypt on a hopeful path to democracy. After Mubarak resigned, the Supreme Council of the Armed Forces (SCAF) became the custodian of the transition. In June of 2012, in Egypt's first free and fair presidential election, Muslim Brotherhood candidate Mohammed Morsi was elected President. Slightly more than 50 percent of registered voters actually voted, and those voters gave Morsi a majority of just less than 52 percent. Having won by this slim margin, Morsi was sworn in as President on June 30, 2012, and thus the Second Republic came to be.<sup>1</sup> He was removed by the military on July 3, 2013 and a temporary President, Adly Mansour, was appointed on July 4, 2013. Thus began the Third Republic.

### The Second Republic

Five months later, Morsi declared his decisions beyond judicial review, and thus his authority unchallengeable. In December, 2012, he pushed a pro-Islamist constitution through a popular referendum; it passed but with less than 30 percent of the popular vote. There was no constitutional way to recall, impeach, or remove Morsi. The path to democracy was taking a turn towards theocratic autocracy. The serving People's Assembly (Majliss al-Sha'ab) had been elected under a law later declared unconstitutional. Over 60 percent of the members of the new parliament were Muslim Brotherhood (MB) and Salafists. To many both in and outside of Egypt who view the values of secular democracy and Islam as overlapping, such values were at risk of being compromised by an Egyptian theocracy ruled by the MB. The MB's democratic rise to power, however, had to be respected. Regrettably, the Second Republic was short-lived.

Insofar as there was no way for popular democracy to change the theocratic course of events, on June 30, 2013, the Egyptian people reacted in the only way possible, with their feet in the

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streets. In response to the general deterioration of the political and economic situations, youth groups launched the *Tamarud* (Rebel) movement, gathering 22 million signatures, whose accuracy was highly questioned, petitioning for Morsi's resignation. They along with other opposition groups planned protests demanding the president's resignation, a revocation of the 2012 Constitution, and a temporary return to the 1971 Constitution until a new constitution could be drafted, and new parliamentary and presidential elections held. Thirteen million people took to the streets calling for Morsi's ouster. Had a constitution been in place, an impeachment process would have been possible. The controversial new 2012 Constitution provided for such a process in its Article 156, but this could only be pursued before the People's Assembly, which had not yet been elected. Consequently, there was no

constitutional process in place through which impeachment could have been pursued.

Between July 2 and 3, 2013, the army intervened in support of the popular demand that Morsi be deposed and took Morsi into custody, selecting a new temporary president who was immediately sworn in. The majority of the Egyptian people supported what the military did. U.S. Secretary of State John Kerry responded on August 2, 2013, from Islamabad, Pakistan, stating that the military had restored Egypt to the path of democracy. Relying on formal legality, the MB disagreed vehemently, holding that this was a military coup without legitimacy.<sup>2</sup> The MB initiated a wave of civil resistance, but also engaged in violence and disruption of public order. A number of violent incidents occurred; no one knows exactly how many persons were killed and injured. The estimates are 3,000 - 4,000 killed, 20,000



Gigi Ibrahim

Tahrir Square. November 27, 2012

- 22,000 injured, and 16,000 - 22,000 arrested. Both sides accuse each other of initiating the violence, and there is no doubt that an impartial and fair investigation is needed.<sup>3</sup> Instead, the National Council on Human Rights issued a report on March 16 blaming all sides without much more. Then, another committee was appointed to report on violations only since July 2013. Its credibility is highly in doubt. Excessive force appears to have been used by the security forces and the military. The human consequences were appalling.

These protests and demonstrations have had a crippling effect on the life of Egyptians, and prevented the country from moving forward. While such events led to some sympathy for the MB and attracted support outside of Egypt, they galvanized more Egyptians to support the military and security forces, adding to the country's already significant level of polarization and radicalization. Supporters of the MB increased their fervor for martyrdom as more of their protestors confronted security forces, even establishing a brigade whose members donned t-shirts reading "martyr" in Arabic. They prepared for a major showdown. This was in effect a big battle for martyrdom. The MB has always hoped to attract sympathy and support, both abroad and at home, and indeed acted with this goal in mind. The former is very likely, while the effect on the latter is likely to be the opposite.

The month of August, 2013, was hot in every sense of the word, as violence escalated in Egypt. At dawn on August 14, Egyptian security forces (police and army) acted to remove the MB and their supporters from public locations they had occupied since July 2 following the ouster of then-President Morsi. Two primary locations were in Cairo, one at the intersection and public square known as al-Rab'a

Adawiyya, the other at al-Nahda Square. The protestors were in other locations in Cairo as well as other parts of Egypt, and engaged in periodic public demonstrations. The two Cairo locations were converted into inhabited makeshift towns with field hospital tents and pharmacies, as well as cooking, housing, and food storage tents. Both of these camps had concrete and stone barriers made of stone blocks removed from the streets. They became fortified areas. Traffic was impeded and the inhabitants of these areas were prevented from accessing their homes and from circulating freely in and out of their neighborhoods. These two locations and other smaller ones became small fortifications ready to face any efforts by the security forces to remove those on the inside. Both sides were locked in their respective positions. The security forces warned that they would act to remove those who had occupied the streets and public areas because they were impeding traffic and infringing upon the rights of the inhabitants of these areas, in addition to disrupting the economy and order of the nation.

These and other demonstrations, protests, and marches by the MB were held in the name of democracy, calling for the return of ousted President Morsi and the restoration of the 2012 Constitution. There are valid claims on both sides. The MB have a valid claim based on the legality of the processes that brought about the election of Morsi and the adoption of the 2012 Constitution by public referendum. The opposition has a claim based on legitimacy that transcends legality, namely that Morsi had appropriated all powers without regard to judicial overview of his executive decisions; that he had mismanaged the affairs of state; that there was no constitutional or other legal mechanism for his recall, removal,

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or impeachment; and that the 2012 Constitution had been rammed through a popular referendum after having been produced by a committee appointed by a legislature established unconstitutionally and whose elected officials had been dismissed.

A negotiated political solution was urged internally and externally. Internally, then-Temporary Vice President Mohammad al-Baradei (who resigned on August 14, 2013) called on the nephew of the late President Anwar Sadat to convene a meeting of all political factions to discuss a solution to the crisis. The MB refused and the effort was not pursued. The Ministry of Transitional Justice, which had been established by decree of Temporary President Adly Mansour and whose cabinet position was occupied by a distinguished,

retired administrative Judge, Amin el-Mahdi, was basically “dead on arrival.” No initiative was taken by the new Minister.

All of this did not help Egypt progress nor address the country’s dire economic and social problems. The military maintain that they do not wish to retain political power and that General Abdel Fattah al-Sisi does not seek to be a dictator. They say that they wish to see Egypt on a path of stability, moving towards democracy in a way that fits Egyptian culture and needs. But let there be no doubt about it: since July 2, 2013, there has been a crackdown on the MB. Somewhere between 17,000 and 20,000 MB supporters have been detained. In addition to Morsi, most of the Brotherhood’s senior leaders have been imprisoned and their media outlets have been shut down. The



Mohamed Elsayed Ibrahim

Pro-Morsi protesters in Damietta on July 5, 2013

former President and the leadership have been charged with a number of crimes including espionage. Their trials began January 2014, and there is a definite feeling that things are returning to the repressive days of Gamal Abdel Nasser.

### The Third Republic

For all practical purposes, Egypt's Third Republic began on July 4, 2013. The birth of the Third Republic coincided with the anniversary of the American Declaration of Independence. Let us hope that this historical coincidence augurs well for Egypt's future after the elections of May 2014, which are certain to see el-Sisi as President. In the meantime, tragic events immediately unfolded, resulting in an estimated 1,000 deaths and 4,000 injuries over the span of just 72 hours. Exact numbers are difficult to ascertain. The Egyptian people have been traumatised by this unprecedented experience of violence. As stated above, the National Council for Human Rights investigated the incident and came out with an ambiguous report blaming all parties. Subsequently, the temporary President appointed a national commission which has already indicated its bias by issuing an interim report stating that there is no torture in Egyptian prisons. Its final report is likely to be seriously disputed. No efforts were made by the UN to establish an international commission.

Freedom and democracy are also among the casualties. Whether the country will turn into what some have described as a police state, is at this point speculative. Both sides, the regime and the MB and its Islamist supporters, are acting on the basis of two totally opposing realities that inform their policies and actions. Egyptian society is strongly

polarized and partially radicalized—each side feeding upon their respective perceptions, using examples of violent and repressive actions as evidence to support their suspicions. There is almost no political center remaining in Egypt, at least none able to mediate between the two extremes. And there are no emerging moral leaders who have credibility with both sides.

The country is on the verge of an economic abyss, and the present instability only adds to the risks it is facing. The accumulation of social and political problems will render stability more difficult to achieve. The regional implications are yet to be felt, as are larger geopolitical consequences. Admittedly the U.S. is in a difficult position. Notwithstanding its best intentions, the Obama administration manages to continue to be viewed by all parties concerned as ambiguous and untrustworthy. Maybe it is this perception more than anything else that impacts the Arab and Muslim worlds. It is only the enormous reservoir of goodwill that Arabs have for Americans that keeps Arab and Muslim countries from giving up entirely on the U.S. as a reliable, friendly state.

### Attacks on Christians

There has been a sharp rise in attacks on Christians and Christian-owned property in Egypt since the events of August 14, 2013. In apparent response to the dispersals on August 14, supporters of the MB across Egypt, particularly in Upper Egypt, engaged in acts of violence against churches and other Christian-owned property. At least 42 churches nation-wide were burned or ransacked, and other Christian-owned businesses or property were attacked.<sup>5</sup> Egyptian authorities, particularly police forces, have consistently failed to prevent these sectarian attacks and were not

present at their sites even after they were made aware that they were taking place. According to Human Rights Watch, sectarian violence in recent months has occurred in eight governorates, and three Coptic Christians and one Muslim were killed as a result of attacks in Dalga, Minya and Cairo. Egyptian authorities lost control of the town of Dalga in southern Minya to Islamists between July 3 (the day Morsi was ousted) and mid-September, during which time the town saw the worst sectarian violence in Egypt in recent memory.<sup>6</sup> The town has a population of about 120,000 of which 20,000 are Christians, and was overtaken by radical Islamists who twice fought attempts by

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the army to regain control of the area. A 1650-year-old monastery and the two churches in the town were burned or looted, about 1000 Christians have fled, and those who remain in the town generally have been staying indoors for fear of harassment.<sup>7</sup> Other residents of Minya have relayed to researchers that someone had been drawing black Xs on Christian-owned storefronts to distinguish them from Muslim-owned businesses so they could be easily identified and attacked.<sup>8</sup> Following police practices of the Mubarak days, “reconciliation sessions” in the presence of local officials, were held in August to pressure Coptic Christians to withdraw complaints they had submitted against police stations in return for their safety.<sup>9</sup> Some in Dalga said that some

town residents even asked for money in exchange for protecting local Christians, in reference to a tax that was imposed on Christians centuries ago.<sup>10</sup> These developments are in effect a breakdown of the rule of law, and a clear failure by the state to fulfill one of its most basic obligations, the protection of citizens from violence. When security forces brought heavy weapons to reclaim control of the town, it was not to protect Christians, but was rather to catch a fugitive Islamist, according to the Interior Ministry.<sup>11</sup>

The governorates of Minya and Asyut are both Islamist strongholds; yet, they both have relatively large Christian populations. This rise in Islamist violent, sectarian activity against Christians, in addition to a growing militant movement in the Sinai Peninsula, shows the inability or unwillingness of the security forces to protect Christians. This violence significantly helps the current military-backed government to make the case for a crackdown on supporters of the MB, which may in fact give further momentum to militant activity in Upper Egypt and Sinai.

The attacks followed weeks of sectarian discourse by public speakers at the two major sit-ins dispersed in August 2013, as well as local groups and religious leaders in different Egyptian governorates, suggesting that Christians were somehow at least partly responsible for Morsi’s removal from power, and inciting attacks against them.<sup>12</sup>

Whatever the posture of the present regime may be, politically, with respect to the protection of non-Muslims, particularly the Copts, it is no different than the Mubarak regime.



## Strikes Against Democracy

In the late hours on July 8 2013, Temporary President Mansour announced a new interim Constitutional Declaration and a political timetable. In so doing, he assumed legislative powers. This new document outlines the timeline to re-establish a democratic system of government while positing certain basic principles about the nature of the state. In short, the Third Republic intends these principles to be drafted in a manner that will appeal to all concerned political sectors of society.

The military, which made this transformation possible, preserved its autonomy in Article 19, which grants military courts complete independence in their affairs. Article 21 confirms that the armed forces are the sole protector of the nation. Article 22 limits discussion of the armed forces' budget to a "National Defence Committee" likely to be dominated by the military. But perhaps the most important provision is Article 23, which does not define the President as head of the armed forces—a claim that ousted President Morsi repeatedly made to confirm the executive's power over the military. The military has not only confirmed its autonomy in every respect, it has also placed itself outside any constitutional limit, which is a blow to democracy with serious consequences for the rule of law, particularly when it comes to the military courts exercising jurisdiction over civilians. In short, the military is no longer under civilian control; instead, it is the controller of civilian power. So much for democracy in the making.

The new Constitutional Declaration gives the Salafists confirmation of the Islamic nature of the state. Article 1 states specifically that "[t]he principles of Islamic Law and that includes its sources, norms, and principles that are to

be found in the recognized schools of law of the Sunna, are the primary source of legislation." This is an expansion from the 1971 Constitution (amended in 1980) that stated, "The principles of Islamic law are the primary source of legislation." This new Article 1 adds that the Supreme Constitutional Court can only recognize Sunni jurisprudence, rejecting any other Muslim jurisprudential school. This was designed to assuage the Salafists. Article 7 states that freedom of religion is for the three Abrahamic religions, ignoring the country's other minority populations. Therefore the Baha'i, Hindu, and Buddhist in Egypt will not be able to exercise their religious beliefs in public places or as groups. This Article violates the International Covenant on Civil and Political Rights (hereinafter the ICCPR), to which Egypt is a party.

The Constitutional Declaration also attempts to modestly address the concerns of liberals by expanding general freedoms. Article 4 declares all citizens equal under the law regardless of "origin, type, language, religion, or creed." Article 6 states that no citizen may be "arrested, searched, detained, or restricted in movement or freedom" except in cases of *flagrante delicto* or with an order from a judge or the state prosecutor. Article 8 protects the freedom of the press, deleting the 2012 Constitution's feared "Parliamentary Press Committee" that would have been given the right to monitor the press and regulate which organizations could and could not publish. Article 10 grants full rights for peaceful meetings and demonstrations of all types. Private meetings are also now allowed, and no member of the security forces has the right to attend or listen in on the proceedings of private meetings. But all of these rights and freedoms are "subject to law," which means that current and

future legislation regulating these freedoms and rights can restrict them. And that too is a violation of international human rights law and the ICCPR. In the meantime, a new anti-protest law was passed in 2014 which significantly restricts these rights

Although this Constitutional Declaration was relatively well drafted, it is ambiguous in places and leaves many questions unanswered. Most significantly, it suspends and yet at the same time relies on the 2012 Constitution, while simultaneously relying on the 1971 Constitution—which the 2012 Constitution supersedes. This is symptomatic of the continuing confusion in the use of constitutional instruments as a way of achieving the political goals of those in power. This was obvious in 2011, during the period in which the SCAF had

*Egypt's economic credit has all but disappeared, and all financial transactions, including government ones, have to be made on a cash basis.*

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taken over all powers. The current Declaration seeks to give something to everybody, yet leaves all sides in doubt. The Islamists are still apprehensive that the freedoms granted in the Declaration could open the door to what they perceive to be “blasphemy” or “attacks on Islam.” The liberals question contradictions in rights and freedoms, and wonder how future laws will restrict them. Both camps have reason to be wary of the continued preferred position of the military that will operate as a state within a state.

The Constitutional Declaration also sets forth what may prove to be an unrealistic

timetable for the country's normalization. The timetable is ambitious but it is also non-binding. Even if it were binding, those who could enforce it are those who created it. This timetable was intended to show that democracy is in the making, that what happened was not a military coup, and more importantly, that the military is not interested in seizing power. A Committee of 50 was appointed by the temporary President which was not representative of all factions of society, specifically excluding nine million Egyptian expatriates with a right to vote. It produced a constitution very much in keeping with the military establishment's dictates. It was adopted in January 2014

### **The Transition**

The Morsi government abjectly failed to address the economic needs of the country. For all practical purposes, his government consisted of marginally competent cabinet officers. But more importantly, there was no economic policy. Not even the most elementary stop-gap measures to prevent the continued free-fall of the economy were put in place. Public safety continued to deteriorate as street gangs and thieves became more brazen, and the country's economic productivity spiralled downwards. Tourism, which has long been Egypt's second largest source of income, plummeted to an estimated 25-35 percent of its pre-revolution, pre-2011 levels. A substantial portion of the workforce joined the ranks of the unemployed, adding to the already 60 percent unemployment rate among those under 30 who represent 50 percent of Egypt's 84 million people. Egypt's foreign currency reserves, valued at \$39 billion in January 2011, declined to a mere \$11 billion by March 2013, of which \$5 billion are believed to have been in gold bullion and \$6 billion in treasury authorizations

which cannot be used at the international level. Egypt's economic credit has all but disappeared, and all financial transactions, including government ones, have to be made on a cash basis. The loan for approximately \$4.5 billion Egypt had started to negotiate with the IMF in early 2011 was never finalized because the Morsi Administration could not agree to removing government subsidies from electricity, gas, and food staples. The new government under the temporary President agreed to renew the talks after the Presidential elections in May 2014.

Saudi Arabia and Qatar deposited substantial amounts with Egypt's Central Bank, but these were in the nature of foreign deposits, which may have helped to give some comfort to investors but were not intended for economic development projects. In fact, the government had no economic development plan. Nevertheless, the government did use some of these funds, thus exposing the treasury to a substantial debt in addition to any other debts that the treasury may discover as a result of the collapse of previous investment projects, particularly in the tourism sector. The Egyptian Treasury will still be indebted to Saudi Arabia and Qatar for sums estimated at \$8 billion dollars. These two countries could forgive this debt, extend the loan in time, or use it as credit to acquire failed and failing economic projects from the public and private sectors. But any such acquisitions would be made at bargain prices, thus further undermining the Egyptian economy. In 2014, Field-Marshal el-Sisi negotiated with the UAE a loan in the amount of \$4.9 billion for housing construction.

The substantial revenue loss due to the decrease in tourism and other economic factors resulted in a substantial loss in the value

of the Egyptian pound, which went from 6 EGP per dollar to 8 EGP in the relatively short period of six months in 2013. This reflected the factors mentioned above and a high inflation rate, which during the Morsi period of one year was approximately 18 percent across the board and higher in certain sectors, particularly the food sector which affects all Egyptians. This particularly impacted the 20 million Egyptians who before the Morsi government took office lived on an average of \$2 per day, or the equivalent of 10-12 EGP. With the purchasing power of the pound dropping so significantly, these 20 million people who were on the brink of poverty have been hurled over the edge.

All of these economic factors had a significant political impact, resulting in a loss of confidence in the Morsi government and in the MB. This was coupled with the obvious ineptness, not to say incompetence, of many cabinet officers and government appointees, as well as a dysfunctional office of the president itself. Issue after issue developed into crisis after crisis, with the government unable to address any of them and the presidency unable to respond. After a year of what could politely be described as a government in disarray, it was obvious to the Egyptian people that Morsi was not a competent president. In fact it was clear that he was a figurehead, and that most decisions were made by the MB's Office of Guidance. Regrettably whoever was calling the shots at the Office of Guidance, including the Guide himself, proved ill-prepared to administer a country.

As the economy went from bad to worse, one of the consequences was a significant acceleration in migration from rural to urban areas. Cairo saw an increase of more than two million people in two years. The new-comers

reside in shanty-towns built outside of existing shanty-towns. As the numbers increased, so did the demand for electricity and water, which the city cannot supply. By the time the June 30, 2013, protests began, the city of Cairo lacked electricity for an average of three hours per day, and several neighborhoods lacked water for up to four hours per day. Other cities also suffered similar shortages. There were shortages of gasoline and bread, both of which are critical in the daily life of Egyptians. Public transportation broke down and rail transportation, which is essential particularly to link Upper Egypt to Cairo, became less and less reliable. Protestors and mobs stopped trains and barricaded roads, while small gangs simply hijacked cars and trucks on highways, even

in Cairo. The government was unable to respond to any of these crises.

In the end, the Egyptian people lost patience with this situation and saw the prospect of an Islamist form of government auguring more of what they were already struggling to endure. The June 30 popular action was therefore not only driven by political beliefs, but also by practical exigencies.

### A Delicate Situation for the U.S.

The Obama Administration reacted to these recent events with ambiguity, as it had since January 2011, and for that matter, to the entire region throughout the “Arab Spring.” Its position, as reflected in public statements by President Obama and spokespersons for the



Essam Sharaf

During the “Arab Spring” a man carries a card illustrating the vital role played by social networks in initiating the uprising.

administration, has frequently come across as unfocused and unclear, sending inconsistent messages. On July 2, the U.S. warned the Egyptian Armed Forces against a coup, threatening to suspend military aid while at the same time encouraging President Morsi to hold early elections (whether for the presidency or the People's Assembly is unclear). But soon thereafter the administration changed its position.

Mixed messages aside, it is clear that the United States must continue to assist Egypt if it wishes to maintain its influence. The administration must not threaten to cut off military aid or any other form of economic assistance. The last thing the U.S. needs is to offend the Egyptian people and the military at this critical juncture. It is essential for the U.S. to maintain its contacts with the Egyptian military in order to retain its leverage and to influence both political and strategic outcomes.

A security vacuum in the Sinai has already allowed Islamist militants to establish themselves in the north of the peninsula. From this position they have launched attacks on Egyptian troops and police as well as on Israeli forces, forcing the current regime to embark on the country's largest military campaign since the 1967 war. The strategic importance of the Sinai and its proximity to the Suez Canal make control of the area critical to U.S. interests. Maintaining ties and providing aid and behind-the-scenes assistance may be the best way to ensure that Egypt regains and retains control over this crucial area.

If the Egyptian military becomes fed-up with U.S. threats to cut off military assistance, Egypt could turn to Russia in the same way it did in 1956. Well aware of this historic

precedent, Russian President Vladimir Putin already made a declaration in Moscow to the effect that Russia would be willing to provide Egypt with military assistance to prevent the situation from devolving into what he called a "civil war." In January 2014, Field-Marshal el-Sisi went to Moscow and penned an agreement to receive military aid from Russia. If Egypt shifted its military supply sourcing to Russia and the U.S. was cut out, American influence in much of the region would vanish. The Arab world would be divided once again, as it was after 1956, between the monarchies and the republics. A new revolutionary flame would be lit, and the U.S. would become the common enemy for most Arab states.

Leaving aside the geopolitical consequences of such a situation, its most direct effect would be to unify the revolutionary fervor existing in the countries that have gone through the "Arab Spring." That in turn may reinforce the position of Islamist movements. It would also destabilize the monarchies and could ignite sectarian war in some of the Gulf States, with the incitement of Iran. This would also constitute a threat to the security of Israel, which would force the U.S. to take a more direct role in providing security for that country. And more direct U.S. involvement in providing military support and protection to Israel would in turn cause an escalation in Arab antagonism towards the U.S.

All of this leads to the conclusion that the U.S. should be very discrete in its pronouncements, develop an integrated regional policy for the Arab world, and avoid being pushed into decisions about the region by domestic politics. The administration must fully realize that the lights along the banks of the Potomac do not illuminate the banks of the Nile, or for

that matter the Tigris and Euphrates, the Litani, or the Yarmouk.

Last but not least, it is important to note that the saga of the Palestinian people is neither dead nor forgotten in the Arab world. What happens in Egypt's Sinai will be affected by what happens in Gaza, and what happens in Gaza will be affected by what Egypt does in Sinai. Similarly, what happens in the West Bank will be affected by what Israel does there, and what happens in Jordan will be affected by what happens in the West Bank. The Arab world is much more interconnected than most people in Washington believe it to be.

This is challenging for the U.S. administration, which should take bold steps in the economic arena to assist Egypt—as well as Syria and Tunisia. It should also create initiatives in Libya, which does not need economic assistance but could benefit from technical assistance on many levels. The U.S. could be the champion of new constitutions and the rule of law, advocating the values and principles we most venerate. But the administration has to live up to these values and principles; the President cannot only make speeches about them. Guantánamo and the wars in Afghanistan and Iraq will continue to haunt the U.S., as does its unconditional support of Israel at the cost of even minimal justice for the Palestinian people. Our own double standards will always be a bar to our credibility with the Arab peoples. But this too can change, if the political will exists.

### **Looking Ahead**

Every revolution raises questions of legitimacy and legality. Some revolutions have legitimate claims, grievances, and goals, but they seldom address or achieve them through lawful processes. Had such a process existed, the

legitimacy of these claims would have been addressed without demonstrations or violence. Revolutions are the last resort.

The Egyptian people have demonstrated that they want popular democracy and the rule of law in their country. They should be supported. Notwithstanding the above, excessive use of force by the military and security forces cannot be justified. As many have asserted, there must be an independent and impartial commission of inquiry to look into recent events, not only in Cairo but in other parts of Egypt. There are too many conflicting and contradictory facts that need to be addressed in order to avoid more violence and a greater schism within a society already sharply divided.

A political solution must be found, even though the European Union, the U.S., and many other countries have called upon the Egyptian military to do whatever possible to prevent violent incidents. But without follow-up, it became clear that these were empty exhortations. Egypt has become deeply divided, and the polarization that has developed between the MB and the rest of Egyptian society is not likely to abate by itself. The divisions have spread beyond large urban centers into the countryside, where they have turned families and neighbors against one another. No internal political mechanism is likely to work under the present circumstances. This is a dangerous sign for a society that needs to be united in order to face and overcome a multitude of contemporary challenges. If this polarization continues, social divisions will deepen and political stability will be threatened, thereby counteracting attempts at decisive leadership and preventing any party from obtaining the broad-based support needed to address these issues. In particular, it is clear

that the country's economic crisis will worsen in the coming months, an issue that cannot be addressed or resolved in the midst of political and social tumult.

Throughout Egypt's history, the one thing that has always held it together is the sense of "Egyptian-ness." This includes the Muslim and the Copt, the rural and the urban, the rich and the poor. Egypt has progressed when its people have been united and regressed when its people have been divided. Field-Marshal el-Sisi's candidacy for the Presidency seems to have united a majority of the people behind him. There is high optimism in the county. But repression of the MB and the pro-democracy movement is ongoing. Police abuses, particularly in the prison system, constitute numerous violation of international human rights

In the meantime, Egyptians must avoid sectarianism. The MB must cease claiming that there is a religious war between the righteous and the *kuffar*, meaning anybody who disagrees with them or advocates secularism. The Salafists must realize that they, like the MB and other Islamists, are part of an Egypt that can claim adherence to Islamic values but must also establish a non-sectarian form of government that guarantees the rights of all citizens, Muslim and non-Muslim alike, irrespective of their faith, color, gender, and any other distinction.

An international or national fact-finding commission should be established to ascertain and assess the events that led to the establishment of the Third Republic in early July up through August 2013. But neither the United States nor the EU is pressing that point, and without it, the military regime will not do it for fear of embarrassment. The military is extremely sensitive to any criticism and will not even allow any inquiry in any of its

actions, and the security forces simply do not want the blame to fall on them, even though their tactical operations have demonstrated excessive use of force. Clearly, there can be no progress towards reconciliation without establishing the facts – the truth is always part of justice. If there is to be any reconciliation, any national harmonization and coming together, it is crucial that an accurate record be established of the participants to any particular act, what occurred and why—particularly those that resulted in multiple deaths and injuries. An impartial and fair commission must determine where responsibility lies, particularly with respect to international criminal responsibility for what could be considered crimes against humanity, torture, or violations of

*If there is to be any reconciliation, any national harmonization and coming together, it is crucial that an accurate record be established of the participants to any particular act, what occurred and why*

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internationally protected human rights. As it is now, conflicting accounts may be due to the polarization mentioned above, as each political protagonist group offers a different narrative based on sometimes radically different interpretations of the same facts, and sometimes based on different facts altogether.<sup>13</sup> But these are essential truths that are foundational for any process of national reconciliation.

The discordant and fractured nature of Egypt today, and the factors stated above, will have significant consequences for Egypt's continued stability and sustainability. The Third Republic is here to stay, in one form or another, and the military will have a strong

role in it for the foreseeable future. The military may formally retreat from its current highly visible public role, but will maintain control over society by pulling the strings from behind the curtain, thereby maintaining its own “state within a state.” This includes an already significant part of the national economy, namely military industries and other interests in different economic sectors. Alternatively, the military may take over the executive branch and rule the country directly, as Gamal Abdel Nasser did in 1954.

The continuing exponential increase in

*The declining economic situation that is evident today will have a continuing impact on the country’s overall human development, which has already been at risk for at least the past decade and more so since the revolution began in 2011.*

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population and the fall in agricultural output and industrial productivity will have dire consequences that will take decades to reverse. The deepening effects of the economic crisis are experienced by most Egyptians, which explains why they continue to support the military and security forces, notwithstanding the casualties among the MB, who have in turn reactivated their “secret organization” and returned to violent tactics. In fact, this violence has helped the current military-backed government to justify its crackdown on supporters of the MB and a reinstatement of the “state of emergency” laws that were employed for decades by Mubarak and only recently declared unconstitutional by Egypt’s highest court. The effect of these confrontations and their fall-out has left average Egyptians feeling drained, with an

overwhelming desire for stability, sustainability, and economic growth.

As history teaches, instability and economic decline often lead to military dictatorship. Thus in a perverse sense the MB’s efforts are not only unlikely to lead the country towards democracy, but may instead produce its polar opposite. The declining economic situation that is evident today will have a continuing impact on the country’s overall human development, which has already been at risk for at least the past decade and more so since the revolution began in 2011.<sup>14</sup> No matter what the future government of Egypt looks like, its priority will necessarily entail stabilizing the country’s government, economy, political parties, civil society, and general public. Competency will—and indeed must—be a prime prerequisite for those appointed to cabinet and sub-cabinet positions. These new leaders must also possess integrity and clearly stand above the fray and the furore of contemporary Egyptian politics.

### **Requiem for the Arab Spring**

A new alliance has been forged between Egypt’s Third Republic, the U.S., and the Saudi-led Gulf Cooperation Council (GCC). From the perspective of regional policy, this will produce results substantially similar to those that existed under the Mubarak regime. Egypt’s Third Republic is unlikely to do anything that will upset its relations with Israel or endanger the peaceful relationship between the two, which is indispensable to Egypt maintaining good relations with the United States. Egypt will work much more closely with Saudi Arabia and through it with the United Arab Emirates and other GCC countries, particularly in the areas of economic cooperation and political support. Qatar, which was the



principal funder of the MB, has a new Emir who will toe the Saudi line. It is already reported that Qatar has cut funding for the MB.

For all practical purposes, this is the end of the “Arab Spring,”<sup>15</sup> but not of confrontations and violence in different parts of the Arab world. In Syria, the casualty count now far exceeds 150,000 killed, an inestimable number of persons injured, and an estimated nine million refugees and internally displaced persons. It appears more likely that the situation in Syria will play itself out over death and destruction only to ultimately result in a settlement imposed by external forces. But when will that come, and after how many casualties, and how much destruction of the country is unknown. Yemen continues to suffer from ongoing internal strife, but little attention is paid to it by the world. Iraq continues in its own incessant ethnic violence with almost daily incidents. Since the Maliki regime has taken over with the support of Iran, an estimated 10,000 people have been killed and as many as 100,000 people injured. Libya continues to be a chaotic scene where militias control the country and operate as gangs. They have virtually stopped oil production and export, kidnapped the Prime Minister from his residence, seized public places at will – all of that because the United States and NATO never planned for the post-Qaddafi period. Where else violence will erupt in the Arab world is unpredictable, but many hotspots exist, such as in Jordan, Morocco, and even Algeria. The Arab world remains in a constant state of upheaval.<sup>16</sup> By way of analogy, it is like a seismic area with multiple volcanoes erupting at different times and sometimes simultaneously. All of that to say, in the most diplomatic of terms, that the situation in the Arab world,

including Egypt, is fluid, unpredictable, and potentially explosive.

### No End in Sight to Ambiguity

The Obama administration finds itself in a dilemma. Many accuse the United States of being disingenuous, playing both sides against the middle and one side against the other. Ambiguity is the worst possible policy in the Arab world, and particularly in Egypt at this time. The type of constructive ambiguity that once was the hallmark of the Nixon administration, as carried out by Henry Kissinger,<sup>17</sup> is no longer workable in the Arab world. Technology has made information access and communication much easier and faster, and has left little to the secretive recesses of diplomacy. So much is known by so many and so fast that Machiavellian diplomacy is very difficult to carry out.

*All of that to say, in the most diplomatic of terms, that the situation in the Arab world, including Egypt, is fluid, unpredictable, and potentially explosive.*

The Obama administration has to decide how it can support the Egyptian military, at the risk of alienating those who advocate democracy and human rights in the international community, and also achieve freedom and democracy. Ambiguity looks like dithering, indecisiveness, and lack of resolve. At this point, the United States is already losing support among Egyptians, even though it is alleged that Secretary Hagel and General Dempsey have consistently reassured their counterparts in the Egyptian military that U.S.

support and cooperation will continue, though subject to disruptions such as the postponement of the delivery of F-16 aircraft and other military equipment and parts. But subject to diplomatically conveyed conditions, on October 9, 2013, the U.S. stated it would be cut a part of the \$1.3 billion military aid it sends to Egypt annually until the Egyptian government takes the necessary steps to restore democracy, in light of the continued crackdown on Islamists.<sup>18</sup> More particularly, it would suspend the delivery of large-scale military systems and withhold cash support. In response to this, the Egyptian government has said this move was wrong and that Egypt “would not surrender to American pressure.”<sup>19</sup> U.S. Secretary of State John Kerry, however, has made clear that this cut in aid is not a withdrawal from relations with Egypt, and has not made clear what the necessary steps are to restore democracy.

*Egypt is in the throes of a military dictatorship, which for some is benign, and certainly for the MB, is not so at all. The U.S. seems satisfied, though uncomfortable, with the situation.*

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The United States should reassure the Egyptian people that it will continue providing assistance. This means that USAID staff that who been evacuated from Cairo should return and resume their activities. This is particularly true with respect to providing technical assistance to the Ministry of Justice for the training of judges, as well as to the Ministry of the Interior for the training of police officers responsible for riot control, and for the prosecutors who ensure that guidelines on the use of force are adequately observed and that the

rights of the accused are safeguarded. More importantly, the U.S. must insist on the reform of prisons and fund such an initiative. Prison conditions are appalling by international standards, as recently revealed in a New York Times article,<sup>20</sup> and numerous other sources including pictures and videos smuggled out of prison. Probably the most egregious example was the asphyxiation of 37 handcuffed prisoners who were in a locked truck parked outside Tora Prison when tear gas was thrown inside the truck. The responsible officer received a 10-year sentence. Torture and mistreatment continues inside prisons and the sick and injured are not being treated and their deaths are not reported as a consequence of the lack of treatment or mistreatment. These are not the hallmarks of a society living according to the rule of law. All of the programs proposed above are fairly low-cost. In fact, cumulatively they would not even amount to the price of one F-16, but they would have a significant impact in Egypt and thus would be a credit to the U.S.<sup>21</sup>

## **Conclusion**

Throughout this article, the reader will no doubt see that there are interspersed conclusions within different sections. But, at the risk of sounding like a self-appointed pundit, I can conclude that Egypt is in the throes of a military dictatorship, which for some is benign, and certainly for the MB, is not so at all. The U.S. seems satisfied, though uncomfortable, with the situation. It is after all no different than the way things were under Mubarak and Sadat, though for the time being with much more repression and violence concentrated in a relatively short period of time. The MB are not likely to give up, and they will continue either with peaceful demonstrations, violent

ones, attacks on Christians in Upper Egypt, or with acts of sabotage. The Regime is likely to respond with the same level of harshness. The media is likely to be more constrained and less free than in the Second Republic, under the MB. Even now the media is under greater restrictions than it had been in the past two decades of the Mubarak regime. In a confidentially leaked video of senior Egyptian army officers published in the *New York Times*, it was clear and unequivocal that the military are concerned about the media and have embarked on establishing a policy of “red lines.” Media repression has been significant. Of note are three Al Jazeera correspondents who were arrested on trumped-up charges that they were conspiring with the MB even though totally unsupported by the facts as revealed by the judge in that case. But it is the economy that will sink Egypt as it is sinking itself. No amount of financial loans or deposits by Saudi Arabia or the Gulf States will be a cure for a rapidly declining economy in the face of an exponentially growing population, which even now relies for 50 percent of its food supplies on foreign imports. No one in Egypt speaks of the existing economic crisis, and there are no plans to address it other than band-aid solutions designed to limit inflationary growth. The security situation in the Sinai is an ongoing threat that is likely to increase particularly as Hamas in Gaza will support it. Will the military option be to attack Gaza? Israel would surely find such an option in its interest, as it would draw Egypt into a new quagmire as it tries to deal with almost 1.5 million inhabitants of Gaza. This will also be a test for the military that so far has had so much difficulty in the Sinai.

Egyptian society is deeply polarized with most of the population favouring the current

military leadership and yearning for political stability and economic development. But this is also an opportunity for the security forces to and some elements of the military to eliminate the MB once and for all, which explains the ongoing repression against them, and the absence of any positive steps toward reconciliation. This is not a good course of conduct, as the estimated three million MB activists and their supporters cannot simply be eliminated. Wisdom would require reconciliation, but wisdom is not prevailing in Egypt at the moment.

Notwithstanding the above as well as the lack of democracy, the United States and the EU will normalize relations with Egypt and look the other way whenever it will suit them.

The future for Egypt and for Egyptians does not look good objectively, but then for some particular reason, some say supernatural, Egypt and Egyptians have always survived. As the late President Sadat once told me during an overnight visit at his hometown house at Mit Abu el-Kom, “don’t worry about Egypt, it has lived for 7,000 years and it will live for a long time to come.” **PRISM**

## NOTES

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<sup>1</sup> The First Republic was declared on 18 June 1953 and ended with the resignation of Mubarak on 18 February 2011. The Second Republic lasted from 30 June 2012 until 4 July 2013. Detailed descriptions of the events described in this article can be found in M. Cherif Basisouni’s *Egypt Updates*, released periodically as of January 2011 and numbered consecutively from 1 - 29. They can be found at <http://mcherifbassiouni.com>

<sup>2</sup> Bear in mind the distinction between legality and legitimacy, the former being a formal, legal and political process, and the latter reflecting the higher

values and principles usually reflected in a constitution.

<sup>3</sup> M. Cherif Bassiouni and Daniel Rothenberg, *The Chicago Principles on Post-Conflict Justice* (DePaul University International Human Rights Law Institute, 2008); See also M. Cherif Bassiouni, *Post-Conflict Justice* (Transnational Publishers 2002); *The Right to Restitution, Compensation, and Rehabilitation for Victims of Gross Violations of Human Rights and Fundamental Freedoms*, 18 January 2000, UN Doc. E/CN.4/2000/62.

<sup>4</sup> "EU to suspend export licenses for weapons used by Egypt," *Egypt Independent*, August 21, 2013. <http://www.egyptindependent.com/news/eu-suspend-export-licenses-weapons-used-egypt>.

<sup>5</sup> Human Rights Watch, "Egypt: Mass Attacks on Churches," August 22, 2013, <http://www.hrw.org/news/2013/08/21/egypt-mass-attacks-churches>.

<sup>6</sup> Patrick Kingsley, "Egyptian authorities re-capture Islamist-held town," *The Guardian*, September 16, 2013, [http://www.theguardian.com/world/2013/sep/16/egyptian-police-recapture-islamist-town-delga?CMP=tw\\_t\\_gu](http://www.theguardian.com/world/2013/sep/16/egyptian-police-recapture-islamist-town-delga?CMP=tw_t_gu).

<sup>7</sup> David D. Kirkpatrick, "In Islamist Bastions of Egypt, the Army Treads Carefully, And Christians Do, Too," *The New York Times*, September 17, 2013, [http://www.nytimes.com/2013/09/17/world/middleeast/in-islamist-bastions-of-egypt-the-army-treads-carefully-and-christians-do-too.html?hp&\\_r=0&gwh=64CD25F025948A4FE25872D91E2D0CB1](http://www.nytimes.com/2013/09/17/world/middleeast/in-islamist-bastions-of-egypt-the-army-treads-carefully-and-christians-do-too.html?hp&_r=0&gwh=64CD25F025948A4FE25872D91E2D0CB1).

<sup>8</sup> Human Rights Watch, "Egypt: Mass Attacks on Churches,".

<sup>9</sup> Amnesty International, "Egypt: Government must protect Christians from sectarian violence," August 20, 2013, <http://www.amnesty.org/en/news/egypt-government-must-protect-christians-sectarian-violence-2013-08-20>.

<sup>10</sup> David D. Kirkpatrick, "In Islamist Bastions of Egypt, the Army Treads Carefully, and Christians Do, Too,".

<sup>11</sup> David D. Kirkpatrick, "In Islamist Bastions of Egypt, the Army Treads Carefully, and Christians Do, Too,".

<sup>12</sup> Human Rights Watch, "Egypt: Mass Attacks on Churches,".

<sup>13</sup> As Bahrain did with the Bahrain Independent Commission of Inquiry (BICI) in 2011. See Report of the Bahrain Independent Commission of Inquiry (2011), available at: <http://www.bici.org.bh/BICIreportEN.pdf>. The BICI's official website is available at: <http://www.bici.org.bh>.

<sup>14</sup> See Arab Human Development Report 2009: *Challenges to Human Security in the Arab Countries*, United Nations Development Programme (2009) available at <http://www.arab-hdr.org/publications/other/ahdrahdr2009e.pdf>; Human Development Report, United Nations Development Programme (2013) available at <http://www.undp.org/content/dam/undp/library/corporate/HDR/2013GlobalHDR/English/HDR2013%20Report%20English.pdf>.

<sup>15</sup> M. Cherif Bassiouni, "The "Arab Revolution" and Transitions in the Wake of the "Arab Spring"", *UCLA Journal of International Law & Foreign Affairs* 17, no. 133 (2012).

<sup>16</sup> Eugene Fisher and M. Cherif Bassiouni, *Storm Over the Arab World: A people in revolution* (Chicago: Follett Publishing Company, 1972).

<sup>17</sup> Henry, Kissinger. *Years of Upheaval* (New York: Little & Brown Co, 1982).

<sup>18</sup> Nicole Gaouette and Caroline Alexander, "U.S. Cuts Military Aid to Egypt, Seeks Move to Democracy" *Bloomberg*, October 9, 2013, <http://www.bloomberg.com/news/2013-10-09/u-s-suspends-cash-and-equipment-assistance-to-egyptian-military.html>.

<sup>19</sup> "Egypt condemns US decision to suspend military aid" BBC News, October 10, 2013, <http://www.bbc.co.uk/news/world-middle-east-24471148>.

<sup>20</sup> David D. Kirkpatrick, "Westerners' Smuggled Letters Offer Glimpse of Egyptian Prisons" *The New York Times*, October 1, 2013, available at: <http://www.nytimes.com/2013/10/01/world/middleeast/westerners-smuggled-letters-offer-rare-glimpse-of-egyptian-prisons.html?pagewanted=all>.

<sup>21</sup> For example, USAID assistance to the MoJ is only \$7.5 million.

<sup>22</sup> David D. Kirkpatrick, "In Leaked Video, Egyptian Army Officers Debate How to Sway News Media" *The New York Times*, October 4, 2013, available at: [http://www.nytimes.com/2013/10/04/world/middleeast/in-leaked-video-egyptian-army-officers-debate-how-to-sway-news-media.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/10/04/world/middleeast/in-leaked-video-egyptian-army-officers-debate-how-to-sway-news-media.html?pagewanted=all&_r=0).

## Photos

Page 6 photo by Elayssed, Mohammed. 2013. *Picture showing pro-Morsi protesters in Damietta on July 5, 2013.* From [http://commons.wikimedia.org/wiki/File:Damietta\\_protests.jpg](http://commons.wikimedia.org/wiki/File:Damietta_protests.jpg) licensed under the Creative Commons Attribution-ShareAlike 3.0 Unported license. <http://creativecommons.org/licenses/by-sa/3.0/legalcode>. Photo reproduced unaltered.

# Talking to the Taliban 2011 – 2012: A Reflection

BY MARC GROSSMAN

When then Secretary of State Hillary Clinton asked in early 2011 if I would become the United States' Special Representative for Afghanistan and Pakistan (SRAP) – after the sudden death of Ambassador Richard Holbrooke, the first SRAP – she described the foundations Ambassador Holbrooke had laid to manage one of the most challenging tasks facing the nation. Secretary Clinton also said that she wanted to continue the experiment: having the SRAP organization prove that the “whole-of-government” philosophy – the idea that the United States must employ expertise and resources from all relevant parts of government to address the nation's most important challenges – was the right model for 21<sup>st</sup> century diplomacy.<sup>2</sup> The SRAP team brought together experts from across the U.S. Government (and included several diplomats from NATO countries) to develop and implement integrated strategies to address the complex challenges in Afghanistan, Pakistan, and the region.

Among the first things I learned when I arrived at my desk in February 2011, was that an allied government had put the United States in contact with someone who seemed to be an empowered representative of the Taliban, the Afghan insurgent group which the United States had removed from power in 2001, but which had ever since kept up a deadly war against Afghans, Americans and our allies, friends and partners.<sup>3</sup> The contact was preliminary, but many in the White House and on the SRAP team hoped that this connection might open the door for the conversation everyone knew would be required if there were ever to be peace in Afghanistan: Afghans talking to other Afghans about the future of Afghanistan. Such direct talk had so far proven impossible because the Taliban refused to meet representatives of the government of Afghanistan. The intriguing opportunity offered by a direct U.S. conversation with the Taliban was that we might be able to create the context for the Afghan government and the Taliban to talk.

This reflection on the two years (2011-2013) I was the SRAP is my attempt to tell part of the story of the conversation between the United States and the Taliban, an initiative that became central to the SRAP team's efforts during these years. Others will recall it from their own

*Ambassador Marc Grossman served as U.S. Special Representative for Afghanistan and Pakistan between 2011-2012. Ambassador Grossman is a Vice Chairman of The Cohen Group.<sup>1</sup>*

perspectives, and there has been subsequent activity of which I am unaware. I also draw preliminary lessons and ask questions that might help those who may yet try to return to a conversation with the Taliban and those who will surely be faced with the challenge of talking to other insurgents to try to end future conflicts. Much of the detail of the conversations and the personalities involved properly remains classified, although too many people have already talked too much about our effort in ways that made it harder to achieve our objective.

The effort to sustain a U.S.-Taliban conversation was an integral component of America's national strategy in Afghanistan and a key part of the 2011-2012 diplomatic campaign in Afghanistan and Pakistan, which was ordered, defined and described by President Barack Obama. The President's speech at West Point on December 1, 2009 was especially important: it was there that he ordered the surge of U.S. forces into Afghanistan and explained to the assembled cadets that, "We will support efforts by the Afghan government to open the door to those Taliban who abandon violence and respect the human rights of their fellow citizens."<sup>4</sup>

Secretary Clinton made the task explicit in a speech honoring Ambassador Holbrooke at the Asia Society in New York on February 18, 2011.<sup>5</sup> In her address, the Secretary said that the military surge then underway in Afghanistan was a vital part of American strategy. Without the heroic effort of U.S. forces, joined by many allies, friends and partners, there was no chance of pursuing a diplomatic end to thirty years of conflict. Secretary Clinton also reminded her audience of the "civilian surge" underway in Afghanistan: thousands of courageous Americans from many U.S.

Government agencies as well as international and Afghan civilians were promoting civil society, economic development, good governance, and the protection and advancement of the role of Afghan women.

Secretary Clinton then called for a "diplomatic surge" to match the military and civilian efforts to catalyze and then shape a political end to the war. This meant focusing U.S. diplomatic resources in an effort to galvanize countries in both the region and the international community to support Afghanistan, including connecting Afghanistan and its neighbors by promoting regional economic opportunities and by engaging the leadership of Pakistan to make a contribution to an Afghan peace process. We believed that, as Henry Kissinger also argued in 2011, Afghanistan could only become secure, stable and prosperous when the region met its responsibility for a positive outcome.<sup>6</sup>

Secretary Clinton was explicit that the diplomatic surge would involve trying to sustain a dialogue with the Taliban even as she recognized the moral ambiguities involved in trying to fight and talk simultaneously with the insurgents. As she said that night in New York, "diplomacy would be easy if we only had to talk to our friends. But that is not how one makes peace." Crucially, she was clear that the U.S. would support the reconciliation of only those insurgents who met three important end conditions: break with al-Qaeda, end violence, and live inside the constitution of Afghanistan, which guarantees the rights of all individuals, including importantly, women.

### **The Diplomatic Surge**

To achieve Secretary Clinton's objective to create a diplomatic surge, we decided first to refer to it as a "diplomatic campaign" to emphasize

that this would not be a series of ad-hoc engagements but instead an effort that followed a comprehensive plan.<sup>7</sup> Building on the work done in 2009-2010 and the military and civilian efforts underway, and founded on SRAP's intense interaction and coordination with our Embassies in Kabul and Islamabad, we sought to connect the military effort with all of the instruments of non-military power in South and Central Asia, including official development assistance, involvement of the private sector, support for civil society, and the use of both bilateral and multilateral diplomacy. We also sought at every stage to make sure these efforts provided the context to explore the tentative connection to the Taliban.

Throughout my service as SRAP, and especially on questions of talking to the Taliban and other insurgents, I drew on guidance received directly from the President, Secretary Clinton, the National Security Council, and from meetings of the Principals and Deputies Committees and special groups formed to support the conversation with the Taliban. My access to the White House, especially National Security Advisor Tom Donilon, Deputy National Security Advisor Denis McDonough, and Assistant to the President Douglas Lute, was extensive and productive. When we met Taliban, we did so with an interagency team. There were occasions when some colleagues tried to micromanage the conversation with the Taliban in ways designed to make it impossible to continue, but the need to keep interagency representatives engaged and as supportive as possible overrode my periodic frustrations.

As we reviewed the diplomatic calendar after Secretary Clinton's speech, we devised a roadmap to create a regional strategy that would produce political and material support

for Afghanistan from its neighbors and the international community while trying to set the conditions for talking with the Taliban. We pursued this roadmap by trying to shape, guide, and leverage four international meetings already set for 2011-2012: a meeting of Afghanistan's neighbors in November 2011 in Istanbul, Turkey, designed to define the region's stake in a secure, stable and prosperous Afghanistan, including a potential peace process; an international meeting to mobilize post-2014 support for Afghanistan in Bonn, Germany, in December 2011; the NATO Summit in Chicago, United States, in May 2012; and an international gathering to promote economic development in Afghanistan set for Tokyo, Japan, on July 8, 2012

The government of Turkey organized the "Heart of Asia" conference in Istanbul on November 2, 2011, to have the region speak for itself about how it should and would support Afghanistan. At the conclusion of the Istanbul meeting, Russia, China, Iran, Pakistan, and India all signed the Istanbul Declaration, a vision that mandates specific regional follow-up actions, including cooperation on counter-terrorism, counter-narcotics and efforts to increase trade and investment.<sup>8</sup>

On December 5, 2011, 85 nations, 15 international organizations and the United Nations met in Bonn to review the progress of the previous ten years and reiterate the international community's commitment to Afghanistan. The conclave agreed on a 2014-2024 "Transformation Decade" for Afghanistan. (2014 is the date NATO and the government of Afghanistan had chosen at the NATO Summit in Lisbon to end the combat mission in Afghanistan and the year that the Afghan constitution requires the election of a new president.) In Bonn, the government of

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Afghanistan made clear and specific promises on governance, women's rights and economic development. The Bonn conference also spelled out the international community's support for a peace process with end conditions for insurgent participation that mirrored those Secretary Clinton had laid out in February 2011.<sup>9</sup>

In advance of the NATO Summit in Chicago, hosted by President Obama, allies and partners pledged more than \$1.1 billion dollars (USD) per year for the years 2015, 2016, and 2017 to sustain and support the Afghan National Security Forces, in addition to the substantial support the United States had pledged. The Afghan government also committed \$500 million dollars (USD) per year for those three years. The strength and

continued development of Afghanistan's army and police will be essential to back up possible future Afghan negotiations with the Taliban and defend Afghanistan's progress if talks stall or fail.<sup>10</sup>

In Tokyo, the Japanese government and the Afghan co-chair sought to highlight the crucial role future official development assistance would make to the Transformational Decade. The Japanese government got pledges of \$16 billion dollars (USD) in development aid for Afghanistan for the years 2012, 2013, 2014, and 2015. Those who gathered in Tokyo also emphasized the need for private sector efforts to develop the region and highlighted the adoption of the Tokyo Mutual Accountability Framework (MAF), in which the government of Afghanistan pledged itself



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British Prime Minister David Cameron, U.S. Defense Secretary Leon E. Panetta, U.S. President Barack Obama and NATO Secretary General Anders Fogh Rasmussen observe a NATO color guard before a moment of silence honoring service members killed or wounded in Afghanistan at the NATO summit in Chicago, May 20, 2012.



to specific, consistent reform, especially in the area of the protection and promotion of women's rights, in exchange for continued international economic support.<sup>11</sup>

We wanted the Taliban to receive a series of clear messages from the meetings in Istanbul, Bonn, Chicago, and Tokyo: that the international community supported a regional vision of peace, prosperity and stability which was designed to undermine the Taliban's narrative of never-ending conflict; that the international community was committed to supporting Afghanistan beyond 2014; that the Afghan government understood the need to improve its governance and fight corruption to answer the Taliban's charges that they would do a better job for the people of Afghanistan; that it was therefore time for the Taliban to change course and join a peace process with the Afghan government.

The other key component of the diplomatic campaign's regional strategy was based on the recognition that no regional structure to support Afghanistan's stability (or encourage an Afghan peace process) would succeed without a strong economic component, including a role for the private sector. To that end, Secretary Clinton introduced in Chennai, India, on July 20, 2011, a U.S. vision for a "New Silk Road" (NSR) to connect the vibrant economies in Central Asia with India's economic success, with Afghanistan and Pakistan in the center, where they could both benefit first from transit trade and ultimately from direct investments.<sup>12</sup>

This NSR, recalling historic trade routes, was based not just on the hope that the private sector, supported by governments, could find a way to connect the region economically, but on ideas and projects already on the table, including the proposed

Turkmenistan-Afghanistan-Pakistan-India pipeline (TAPI) and the Afghanistan-Pakistan Transit Trade Agreement. In addition, a U.S. Geological Survey report had recently concluded that Afghanistan had substantial potential mineral wealth, including rare earth minerals.<sup>13</sup>

Trade between Pakistan and India, with the encouragement of both governments, was expanding. The region had begun to recognize the necessity of economic links through its own organizations. In his book *Monsoon*, Robert Kaplan describes the importance of Afghanistan in the center of these potential regional linkages: "Stabilizing Afghanistan is about more than just the anti-terror war against al-Qaeda and the Taliban; it is about securing the future prosperity of the whole of southern Eurasia."<sup>14</sup>

I also believed that the NSR vision could provide additional context for encouraging talks between the Afghan government and the Taliban. A successful NSR would, at least for some fighters, offer economic opportunities that would make it possible for them to conceive of an alternative future.

The effort to create a regional context to support Afghanistan and to sustain the dialogue with the Taliban in order to open the door for a direct conversation among Afghans required that we worked closely with Afghanistan's neighbors and the wider international community. At every meeting of the International Contact Group (ICG) – an organization of over fifty nations (many of them Muslim) previously created by Ambassador Holbrooke to support Afghanistan – that took place in 2011 and 2012, we encouraged the Chairman of the Afghan High Peace Council (HPC), the Afghan government entity given the responsibility to carry out negotiations

with the Taliban, to brief the ICG on the status of the Afghan peace process. We used other events, such as meetings of NATO allies and ISAF partners to keep people informed.

We made a major effort to keep Russia and India informed of our thinking. Moscow and Delhi were both skeptical of the capacity of the Taliban to meet the requirements set by the government of Afghanistan and the international community, but both were key to any possible success. SRAP team members traveled often to Central Asia where there was always great interest in the possibilities for peace that could lead to secure borders, economic integration, and more regional cooperation to combat drug trafficking, and to China, where Beijing was arranging its policies toward Afghanistan to support the government in Kabul through various aid programs (three done jointly with the United States) and investments in the extractive industries.

These international and regional consultations always started and ended with discussions with Kabul. We also kept the government of Afghanistan, especially President Hamid Karzai, completely and fully informed of all of our conversations with the Taliban. We worked especially closely with the Foreign Minister and his team and with leaders and members of the HPC. Working with the HPC was especially important. Although more could always be done, especially to include more women in the HPC's senior ranks, HPC members did try to represent Afghanistan's geographic, ethnic, and gender diversity. I consulted with HPC Chairman Burhanuddin Rabbani, his deputy Mohammad Stanekzai, and other HPC members on each of my trips to Kabul, at each of the four international conferences and at many other international meetings. Embassy Kabul

kept up the dialogue not only in Kabul but also in HPC offices around the country.

During my service as SRAP, we encouraged the HPC to play an increasingly active role in setting Afghan peace policy and in pursuing tentative contacts with the insurgents in Afghanistan and, where possible, in other countries in the region. Indeed, on several occasions the HPC and then U.S. Ambassador to Afghanistan, Ryan Crocker, met potential contacts as a team.

### **Problems with Pakistan**

2011 was an awful year for U.S.-Pakistan relations.<sup>15</sup> In February and March, the Raymond Davis case, in which a U.S. contractor shot and killed two Pakistanis when he thought he was the target of a robbery, pre-occupied both governments.<sup>16</sup> On May 2, 2011, U.S. Special Forces killed Osama bin Laden in Abbottabad. After an initial positive reaction to the death of the world's most prominent terrorist, Pakistanis focused on what they said was a U.S. violation of their sovereignty, and U.S.-Pakistan relations deteriorated. In September 2011, the U.S. Embassy in Kabul was attacked by fighters from the Haqqani Network, a terrorist gang that operates largely from Pakistani territory. On November 26, 2011, twenty-four Pakistani soldiers were accidentally killed on the Pakistan-Afghanistan border by U.S. aircraft.

Although we had from the beginning of the diplomatic campaign in February 2011 paid special attention to working with Pakistan's civilian and military leadership, we felt it best at this point to step back and let Pakistanis debate the future of the U.S.-Pakistan relationship and come to their own conclusions before it would be possible to reengage.

On April 12, 2012, the Pakistani Parliament unanimously approved the recommendations of the Parliamentary Committee on National Security for U.S.-Pakistan relations.<sup>17</sup> In Washington, these recommendations were read as far from ideal, but they formed the basis of a new dialogue. When Secretary Clinton met Pakistan President Asif Ali Zardari at NATO's Chicago summit in May, the two sides agreed to try over the following six months to reopen the ground lines of communication from Afghanistan through Pakistan (which had been closed since the November 2011 incident), focus on supporting the Afghan peace process, pursue joint counter-terrorism efforts, and try to move the U.S.-Pakistan economic relationship from one that was centered on U.S. aid to Pakistan to one based on trade and investment. Secretary Clinton met with Foreign Minister Hina

Rabbani Khar in Tokyo in July and in Washington in September, and then again with President Zardari in New York that same month to find concrete ways the U.S. and Pakistan could identify shared interests and act on them jointly.

The one bit of good news in 2011 had been the establishment of the U.S.-Pakistan-Afghanistan Core Group, organized to enable the three countries to talk about how to support an Afghan peace process. By end of 2012, the Core Group had met eight times, including one meeting chaired by Secretary Clinton with Pakistani Foreign Minister Khar and Afghan Foreign Minister Dr. Zalmay Rassoul. In Core Group meetings and, more importantly, in bilateral meetings between Pakistan and Afghanistan, Pakistanis seemed more ready to engage in taking specific steps to promote reconciliation among Afghans, such as discussing



U.S. Army Sgt. David E. Alvarado

Gen. Bismullah Mohammadi of the Afghan National Army, Gen. Ashfaq Parvez Kayani Chief of Army Staff of the Pakistan Army and Gen. Stanley A. McChrystal, Commander of NATO International Security Assistance Force and U.S. Forces Afghanistan (Center) gather for a group photo with senior military and diplomatic representatives from Afghanistan, Pakistan and the United States prior to the 29<sup>th</sup> Tripartite Commission held at NATO International Security Assistance Forces Headquarters, Kabul, Afghanistan August 17, 2013.

how to manage the safe passage of insurgents traveling from Pakistan to a potential negotiating venue. This emerging story of joint efforts to promote reconciliation was too often overshadowed during these years by Pakistan's continued hedging strategy in Afghanistan, and by the Afghan Taliban's use of safe havens inside Pakistan to support their attacks on Afghan, U.S. and other ISAF forces.

### Talking to the Taliban

The United States' attempt to sustain a dialogue with the Taliban and pave the way for an Afghan-Afghan conversation about ending the war started with preliminary sessions with a U.S. "Contact Team" in Europe and the Gulf.<sup>18</sup> I began to participate in these talks in mid-2011 and chaired the U.S. interagency team at the several sessions in Qatar until the Taliban ended the talks in March 2012.

One of the first questions I asked when I took on the SRAP responsibility was, "Who was sitting across from us at the negotiating table?" An impostor had already embarrassed NATO in 2010.<sup>19</sup> Over a period of months, we became convinced that the Taliban representative, who was professional and focused throughout our interactions, had the authority to negotiate what we were trying to achieve: a series of confidence-building measures designed to open the door for the Taliban to talk directly to the government of Afghanistan.

These confidence-building measures included the opening of a political office for the Taliban in Doha, Qatar, where Afghans could meet to talk about how to end the war. We made clear to everyone that the office could not represent the headquarters of an alternative Afghan government in-exile (and certainly could not be called an office of the Islamic Emirate of Afghanistan – the Taliban's

name for the state they were seeking to establish), nor could the office be an insurgent recruiting station or a venue for raising money to support the insurgency.

The confidence-building measures (CBMs) also included the requirement that the Taliban make a public statement (or statements) distancing themselves from international terrorism and accepting the need for an Afghan political process. The CBMs also involved the possible transfer of Taliban prisoners from Guantanamo and the release of U.S. Army Sergeant Bowe Bergdahl, a captive of the insurgents since 2009.<sup>20</sup>

As we had more sessions with the Taliban's representative in Qatar, it became clearer that the Taliban's main objective was to get their prisoners released from Guantanamo. They were convinced they had leverage on the United States because they controlled Sergeant Bergdahl. Both sides tried unsuccessfully to use their prisoner(s) as a foundation for a larger arrangement.

In the end, we were unable to reach agreement with the Taliban on any part of this CBM sequence. Throughout the U.S. effort to get the Afghan government and the Taliban to talk directly, President Karzai remained very concerned that we would make an arrangement with the Taliban that ignored Afghanistan's interests. I did my best, supported by the highest levels in Washington and by Ambassador Ryan Crocker and his team in Kabul, to convince him that this was not our intent or in our interests.

When the Taliban announced on March 15, 2012, that they were suspending talks with the United States, observers gave several reasons, including the analysis that the Taliban leadership was having a hard time motivating their fighters. "Why should I fight," some

insurgents presumably asked, “when there are peace talks with the enemy?”<sup>21</sup> The Taliban claimed that they were suspending talks because we had reneged on our promises about Guantanamo (untrue) and that, to keep faith with President Karzai, we had added some steps to the CBM sequence (true).

The attempt to open the Political Office in Qatar in June 2013, which failed after the Taliban misrepresented the name and purpose of the office, highlights the U.S. Administration’s continued interest in pursuing a political counterpart to the U.S. military strategy and getting Sergeant Bergdahl home, as December 2014 marks the end of ISAF’s combat role.<sup>22</sup> Representatives of the Afghan government have met Taliban representatives at conferences and during Track II conversations, including, if press reports are accurate,

sometimes talking without the government’s permission.<sup>23</sup> Although there remains a high level of distrust in both Kabul and Islamabad about the others’ strategy, tactics and motivation, Pakistan’s new government has signaled interest in supporting an Afghan peace process, including by hosting President Karzai for meetings in Islamabad in August 2013 and then releasing some Taliban prisoners in early September, “to further facilitate the Afghan reconciliation process.”<sup>24</sup> There remain many uncertainties about whether there can ever be direct talks among Afghans about their future and a serious conversation may not be possible until after the April 2014 Presidential elections. President Karzai has recently demanded, as part of the Bilateral Security Agreement (BSA) end game, American support for opening talks between his government and the



President Barack Obama (center) with Afghan President Hamid Karzai (left) and Pakistan President Asif Ali Zardari (right) during a US-Afghan-Pakistan Trilateral meeting in Cabinet Room. 6 May 2009.

## GROSSMAN

Taliban. What is clear is that the need for an Afghan peace process is now squarely on the international agenda in a way it was not when Secretary Clinton spoke in New York in February 2011.

### Conclusions

As I reflect on our attempt to talk to the Taliban in 2011-2012, here are several conclusions and questions which may be of some use to those who continue the work of the SRAP and, perhaps, others who will again face the question of negotiating with terrorists or insurgents on behalf of the United States.

**Diplomacy must be backed by force; the use of force must back the diplomacy.** Negotiations must be part of the larger campaign and must be seen to be so by everyone involved. As retired British General Sir Rupert

Smith has written, "The general purpose of all interventions is clear: we seek to establish in the minds of the people and their leaders that the ever-present option of conflict is not the preferable course of action when in confrontation over some matter or other [...] To do this, military force is a valid option, a level of intervention and influence, as much as economic, political and diplomatic leverage, but to be effective it must be applied as part of the greater scheme, focusing all measure on the one goal." Smith also writes, "We seek to create a conceptual space for diplomacy, economic incentives, political pressure and other measure to create a desired political outcome of stability."<sup>25</sup>

During my tenure, I consulted closely with the Chairman and the Vice Chairman of the U.S. Joint Chiefs of Staff, and with Generals



Pete Souza

United States President Barack Obama and Afghan President Hamid Karzai exchange documents after signing the Enduring Strategic Partnership Agreement Between the United States of America and the Islamic Republic of Afghanistan at the Presidential Palace in Kabul, Afghanistan on 2 May 2012.

James Mattis, David Petraeus, and John Allen, military leaders of U.S. Central Command, and ISAF, in Tampa, Florida, and Kabul – not just about talking to the Taliban, but about how the diplomatic campaign supported the military strategy in Afghanistan and the region.

Working with the intelligence community, we consistently re-examined the possibility that the Taliban had entered a conversation in order to keep us busy or distracted or both while they continued to kill Afghans, Americans, friends, partners and allies, waiting for what they believed would be our ultimate withdrawal. We also recognized that our effort to engage in talks might only produce fissures in the Taliban and not Afghan-Afghan talks, especially as the Taliban were so focused on their Guantanamo prisoners.

The U.S.-Afghanistan Strategic Partnership Agreement (SPA), signed by President Obama and President Karzai in Kabul in May 2012, was a key part of our effort to put the talks with the Taliban in the context of a comprehensive vision for a future partnership. The best statement of how important a peace process could be to America's larger national strategy is President Obama's statement in Kabul in May 1, 2012. The President said that the United States has five lines of effort in Afghanistan: fighting terrorism; training and assisting Afghan National Security Forces; building an enduring partnership with Afghanistan; supporting an Afghan peace process; and, working to create strong regional structure to support Afghanistan into the future.<sup>26</sup>

The SPA sent an important message to the Afghan people: You will not be abandoned after 2014, and the U.S.-Afghan relationship in the years ahead will not be a solely military relationship. The Taliban will also pay close

attention to the fate of the BSA, which follows on from the SPA, and which President Karzai has so far refused to sign. Without a BSA, endorsed by Karzai or his successor, President Obama cannot keep even a minimum number of U.S. forces in Afghanistan after January 2015 to give the Afghans confidence that we will support them in protecting what has been achieved at such high cost, to pursue the still crucial counter-terrorism mission, and to train and ANSF. With no American forces deployed, U.S. allies and partners will have a much harder time supporting Afghanistan militarily.

**It is hard to fight and talk at the same time.** I underestimated this challenge in our own government and similarly underplayed it in initially analyzing the Taliban perspective. There is always a temptation in the interagency to paper over disputes, but we tried to remain committed to unity of effort because the President had made clear his desire to see what could be done to establish an Afghan-Afghan peace process. One example was the question of how to assess the relative priority between reintegrating individual Taliban fighters back into society and the possibility of a larger reconciliation process with senior insurgent leaders as part of an Afghan peace negotiation.

Some argued that the reintegration program, which had, with Afghan government support, successfully attracted several thousand Taliban out of the insurgency and back into society was all that was needed to end the conflict over time. The SRAP team supported the reintegration program but saw it as one part of a larger whole. I often described reintegration as "retail" (but still very important) and reconciliation that would take place as part of a larger peace process as "wholesale" as a way to bridge these differences in perspective.

Simultaneously fighting and talking was also hard for the Taliban. While we met with a representative of the Taliban Political Commission, who seemed interested in a negotiated end to the conflict, the Taliban Military Commission appeared to want to continue the fight: they could not understand why they should give up what they considered they had achieved at great cost in a political settlement. The Taliban also were unconstrained in how they fought, using the most brutal tactics and efforts, such as suicide bombing, attacks on schools and hospitals and the “green-on-blue” or “insider” killings, which they correctly recognized had a substantial impact on morale in ISAF countries.

When and how to fight and talk simultaneously is also heavily influenced by external events and time-lines: a U.S. election for example, or the time it would take for the various parties to comprehend the impact of the outcomes of Istanbul, Bonn, Chicago, and Tokyo. I often told the SRAP team that our effort to sustain a dialogue with the Taliban might have been undertaken a year too soon and that in mid-2013 or early 2014, someone would be back trying to talk to the Taliban or some part of the group. Perhaps the attempt to restart talks in Qatar in June 2013 supports that prediction.

**While the objective is to shape events, it is crucial to be able to react to the unexpected.** We often found ourselves reacting to Taliban actions, which in their brutality called into question their commitment and capacity to create a peace process. Unexpected events in the United States, such as the accidental burning of Korans and the release of videos showing U.S. soldiers urinating on Taliban bodies gave the insurgents free rhetorical ammunition. But the event that, for me, had the most

unforeseen consequences was the murder in September 2011 of the then Chairman of the HPC, Burhanuddin Rabbani. Whoever committed this act had a diabolically accurate sense of how damaging Rabbani’s murder was for the peace effort. What I did not immediately understand was that our challenge would be multiplied because Rabbani’s chief assistant, Mohammad Stanekzai, who was severely wounded in the attack, then spent weeks at a military hospital in India. We realized how much we had missed Stanekzai’s wisdom and courage on his return.

**The capacity and the commitment of the allied partner are critical considerations.** President Karzai’s objective in the two years I was the SRAP was to expand Afghanistan’s sovereignty. In many important ways, this was exactly what we were also seeking, but President Karzai’s efforts created tension on issues like U.S. support for an Afghan peace process, negotiations on the Strategic Partnership Agreement (and now the BSA) and the question of who should be responsible for holding Afghan prisoners in Afghanistan and for how long. The February 13, 2014 release by Afghanistan of 65 prisoners from the Parwan Detention Facility has refueled this controversy. The Taliban also made much of corruption, which many perceived had infused Afghanistan, especially its financial system, with the Kabul Bank scandal being a prominent example.

The question for the future is whether the government of Afghanistan will meet the obligations it undertook in the Tokyo Mutual Accountability Framework, including its emphasis on a legitimate election in April 2014 and, crucially, focus on women’s rights and protections.<sup>27</sup> If they do so, the generous pledges made in Tokyo by donors need to



move from pledges to real money. Another key consideration is whether Afghans will fight to protect what they have achieved at such great cost to themselves, Americans and our friends, allies and partners, and whether to carry out this struggle they will support the Afghan National Security Forces. To support this fight, the international community must meet the commitments it made in Chicago to keep these forces funded and trained.

President Obama faces the challenging question of how many U.S. troops to leave in Afghanistan after December 2014 to support the Afghan National Security Force and fight terrorism. A robust number will be an essential signal to Afghans and promote contributions from other allies, friends and partners. The Taliban will be astute judges of whether Afghans have the will to fight and whether we have the will to support them.

**It is important to be clear about how much influence to give other countries, organizations, and individuals who are trying to help.** The conversation with the Taliban was surrounded by facilitators, enablers, supporters, and critics. The German government worked closely with us as we pursued Taliban contacts. The government of Qatar hosted Taliban representatives and encouraged the direct negotiation. The Saudi government worked hard to get the Taliban publicly to break with al-Qaeda. The Turkish government supported the regional effort, and encouraged contacts with the insurgents, including providing medical care and shelter to Taliban “moderate,” Agha Jan Motasim after he was wounded in a shooting in Pakistan.<sup>28</sup> The UAE government worked closely with the SRAP team on issues related to both Afghanistan and Pakistan and hosted meetings of the International Contact Group. Prime Minister

David Cameron, Foreign Secretary William Hague and other senior British officials kept close tabs on the possibilities and encouraged rapid movement. Other European countries played confidential facilitative roles. The United Nations had its own contacts with the Taliban and others and provided counsel and perspective. The UN Security Council was active both in reforming and managing the sanctions on Taliban travel. The SRAP team was also contacted by numerous groups and individuals who provided insights and the ability to pass messages. There was also an active Track II effort underway in Europe and in the Gulf, where Taliban representatives met informally with private and official contacts, including SRAP team members. I favored multiple contacts with the Taliban as long as everyone told the Taliban that we were in contact with one another so that the Taliban did not believe that they had individual leverage.

*It is important to be clear about how much influence to give other countries, organizations, and individuals who are trying to help.*

**The neighbors matter.** While easier to prescribe than accomplish, the main task with Pakistan remains to convince them that their real struggle is with the Pakistani Taliban (TTP), and that chaos in Afghanistan is bad for Pakistan because it will surely be exploited by the TTP. U.S. leaders need to keep pressing for an end to the safe havens Pakistan either provides or tolerates for the Afghan Taliban. Enforcing that requirement is complicated, however, by the U.S. military’s need for the Ground Lines of Communication (GLOCs) to exit Afghanistan.

The Central Asian states must also continue to be engaged. Their fears: narcotics trafficking, terrorism, lawless borders; are real and need to be addressed through a regional approach founded on the commitments made in Istanbul and after, with the support of the international community. Beijing has taken up the “New Silk Road” mantle. Following trips to the region by his two immediate predecessors, Chinese President Xi Jinping visited four Central Asian countries in September 2013, “eclipsing,” according to the Washington Post, “the American vision of a New Silk Road.”<sup>29</sup>

We need to remain open to the option of talking with Iran about Afghanistan; some, but by no means all, of our interests overlap. When I became the SRAP, the Iranians sent a message through an American non-governmental organization that they would receive me in Tehran to discuss Afghanistan. I was authorized to respond that I would meet an Iranian representative in Afghanistan or in a third country. We passed this message three separate times in mid and late 2011 but never received a definitive response.<sup>30</sup>

**It is vital to understand what has been done beforehand.** The SRAP team set out to interview people who had been involved in talking to insurgents and those who had set up peace negotiations in the past. We built up a library of information and plans, including models ready in case there was a rapid, broader attempt to negotiate peace. Although there is much academic and practical literature on the question of how wars end and how to speak to insurgents, some scholars and practitioners have looked more deeply than others into these issues.<sup>31</sup>

**Create as much public consensus as possible, especially on Capitol Hill. Pay close**

**attention to local opinion.** Just as we worked hard to keep allies, friends, and partners fully informed of our activities, we also paid particular attention to briefing the Congress at every opportunity and consulting with members as necessary. While we greatly benefitted from our interactions with members of the House and Senate and took seriously their advice and concerns, we did not succeed in convincing senior leaders of the Senate or the House that transferring Taliban prisoners from Guantanamo to Qatar was the right course of action.<sup>32</sup>

Given the requirements of secrecy involving the negotiation, we also did our best to keep up a public conversation on the need for an Afghan peace process, including having Secretary Clinton reiterate our willingness to engage in a dialogue in a speech in early April 2012, after the Taliban broke off the talks a month earlier.<sup>33</sup>

Talking to the Taliban was not a major issue in the 2012 U.S. Presidential campaign; in fact, some columnists and observers generally supported our effort.<sup>34</sup> We regularly engaged the Afghan press, parliament, civil society, and the opposition, both directly and through the U.S. Mission in Kabul, but many Afghans, especially women, remained deeply troubled by the possibilities of anyone talking to the Taliban. Given their history and the Taliban’s tactics, this was understandable and they constantly and properly reminded us not to make decisions for them about the future of Afghanistan. Secretary Clinton met civil society representatives often, including in Bonn and Tokyo.

President Obama and Secretary Clinton were clear about the fundamental premise of the diplomatic campaign: the war in Afghanistan was going to end politically and

we would either shape that end or be shaped by it. Shaping the end involved using all of the instruments of U.S. non-military power in South Asia, including the 2011-2012 diplomatic campaign to create a regional structure to support Afghanistan, the NSR economic initiative, and the attempt to negotiate with the Taliban to try to open the door for Afghans to talk to other Afghans about the future of Afghanistan. It was a worthy effort even recognizing that it did not result in a set of CBMs, that the Taliban continue their fight, that Sergeant Bergdhal is still a captive and the concept of a prisoner transfer was poorly received on Capitol Hill.

One more point is worth making; the moral ambiguity involved in talking to insurgents was clarified by our commitment to American values and the way those values define U.S. diplomacy. We believed that any arrangement we managed to make with the Taliban would have to meet not just the standards set in Secretary Clinton's Asia Society speech but also American commitments to tolerance, pluralism, and the rule of law. In the end, it came down, for me, to the conviction described by Berti Ahern, the former Irish Prime Minister, who is quoted by Mitchell Reiss: "You ask yourself," said Ahern, "Can I stop the killing for the next decade? I can't stop the killing of the last decade... so there's one acid test: Are these people willing, if circumstances were different, to move into a political process? The reward is there aren't so many funerals."<sup>35</sup> **PRISM**

## Notes

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<sup>1</sup> The author wishes to thank The Cohen Group and the Johnson Center for the opportunity to work on this reflection. Ambassador Ryan Crocker, Mildred Patterson, Frank Ruggiero, and Mark Steinberg all read drafts and improved the text. Timothy Sullivan also made a key set of contributions. Thanks to Alden Fahy, who expertly and patiently shepherded the text through the U.S. Department of State. Thanks also Jenny McFarland who helped prepare the text. Any errors are the sole responsibility of the author. The opinions and characterizations in this article are those of the author and do not necessarily reflect official positions of the U.S. Government.

<sup>2</sup> Many have written on this subject, for example, George L. Argyros, Marc Grossman and Felix G. Rohatyn, *Embassy of the Future* (Washington, DC: Center for Strategic and International Studies, 2007) and Richard Armitage and Joseph Nye, *Smart Power* (Washington, DC: Center for Strategic and International Studies, 2007). Secretary Clinton's *Leading Through Civilian Power: The First Quadrennial Diplomacy and Development Review* (Washington, DC: Department of State, December 2010) speaks directly to the whole of government concept and is dedicated to Holbrooke.

<sup>3</sup> See, for example, Ahmed Rashid, *Taliban* (New Haven: Yale University Press 2000) and Ahmed Rashid, *Descent into Chaos* (New York: Viking, 2008).

<sup>4</sup> President Obama, "Remarks by the President in Address to the Nation on the Way Forward in Afghanistan and Pakistan," U.S. Military Academy at West Point, West Point, New York, December 1, 2009.

<sup>5</sup> Hillary Clinton, "Remarks at the Launch of the Asia Society's Series of Richard C. Holbrooke's Memorial Addresses", The Asia Society, New York, February 11, 2011.

<sup>6</sup> Henry Kissinger, "How to Exit Afghanistan Without Creating Wider Conflict", *The Washington Post*, June 7, 2011 and conversations with the author.

<sup>7</sup> I have described the 2011-2012 diplomatic campaign more fully in "Seven Cities and Two Years" in the *Yale Journal of International Affairs* (Summer 2013), 65-75, from which I have drawn for this essay. My thanks and recognition to the *Yale Journal*. <http://yalejournal.org/2013/06/12/seven-cities-and-two-years-the-diplomatic-campaign-in-afghanistan-and-pakistan/> A skeptical view of whether the State Department is capable of purposeful activity is in Dr. Kori N.

Schake's, *State of Disrepair* (Stanford, CA: Hoover Institution Press, 2012). See also Marc Grossman, "The State Department: Culture as Destiny", Roger Z. George and Harvey Rishikof, *The National Security Enterprise*, (Georgetown University Press, Washington, DC 2011), 84.

<sup>8</sup> "Declaration of the Istanbul Process on Regional Security and Cooperation for a Secure and Stable Afghanistan" (Istanbul, November 2, 2011).

<sup>9</sup> "Afghanistan and the International Community: From Transition to the Transformation Decade" (The International Afghanistan Conference in Bonn, December 5, 2011).

<sup>10</sup> NATO, "Chicago Summit Declaration on Afghanistan" (Issued by the Heads of State and Government of Afghanistan and Nations contributing to the NATO-led International Security Assistance Force, Chicago, May 21, 2012).

<sup>11</sup> "The Tokyo Declaration: Partnership for Self-Reliance in Afghanistan, From Transition to Transformation" (Tokyo Conference on Afghanistan, July 8, 2012) and "Tokyo Mutual Accountability Framework" (Tokyo Conference on Afghanistan, July 8, 2012).

<sup>12</sup> Hillary Clinton, "Remarks on India and the United State: A Vision for the 21st Century" (speech given at Anna Centenary Library, Chennai, India, July 20, 2011).

<sup>13</sup> Cheryl Pellerin, "DoD, U.S. Agencies Help Afghanistan Exploit Mineral Wealth," *American Forces Press Service*, July 30, 2012.

<sup>14</sup> Robert D. Kaplan, *Monsoon* (New York: Random House Trade Paperbacks, 2011), 14.

<sup>15</sup> For this section on Pakistan, I have again drawn on my article in *The Yale Journal of International Affairs* (Summer 2013), 65-75.

<sup>16</sup> Mark Mazzetti, "Pakistan's Public Enemy," *The New York Times Magazine*, April 14, 2013, 30-35 and 40-41.

<sup>17</sup> Zahid Gishkori and Huma Imtiaz, "Pak-U.S. Ties: Parliament Unanimously Adopts Revised Recommendations Draft," *The Express Tribune*, April 12, 2012.

<sup>18</sup> This story is told in *Pakistan on The Brink* by Ahmed Rashid. Viking, New York 2012, pages 113-136. See also Karen DeYoung, "US-Taliban Talks Reached Tentative Accord", *The Washington Post*, December 23, 2011; Karen DeYoung, "US to Resume Talks With Taliban", *The Washington Post*, January 12, 2012; "As US-Taliban Talks Stall, Hope for Solution Dims", *The Washington Post*, May 10, 2012; Lyse

Doucet, "The Ball is Now in the Taliban's Court", BBC February 15, 2013.

<sup>19</sup> Rashid, 129

<sup>20</sup> Sargent Bergdahl's parents told his story in the May 15, 2012 issue of *Time*.

<sup>21</sup> Sami Yousefzai and Ron Moreau, "How Afghan Peace Talks are Splintering the Taliban", *Newsweek*, February 13, 2012, <http://www.newsweek.com/how-afghan-peace-talks-are-splintering-taliban-65667>.

<sup>22</sup> For recent reporting and analysis see Stephen Biddle, "Ending the War In Afghanistan", *Foreign Affairs*, (September/October 2013), 49-58; Josh Rogin, "Here's Why America's Only P.O.W. Was Suddenly Shown Alive", *The Daily Beast*, February 12, 2014; Anne Gearan and Ernesto Londono, "Taliban Prisoner Swap Possible", *Washington Post*, February 18, 2014.

<sup>23</sup> Bailey Cahall, "Afghanistan's AG Removed for Meeting Taliban Without Permission", *Foreign Policy Magazine*, AfPak Daily, August 19, 2013.

<sup>24</sup> Pamela Constable, "Pakistan Frees 7 Afghan Taliban", *The Washington Post* September 8, 2013, A-10; Rod Nordland and Sharifullah Shak, "Afghanistan and Pakistan Release Taliban Militants", *The New York Times*, September 8, 2013, 12.

<sup>25</sup> Rupert Smith, *The Utility of Force*, (New York: Vintage, 2007), 272 and 409.

<sup>26</sup> Remarks by President Obama, "Address to the Nation from Afghanistan", Bagram Airbase, Afghanistan, May 1, 2012.

<sup>27</sup> Biddle, *Foreign Affairs*.

<sup>28</sup> Pamela Constable brings the so far unsuccessful effort to have Agha Jan Motasim lead an "alternate Taliban" up to date in "Suicide bombing continue surge in lethal Taliban attacks", *The Washington Post* September 1, 2013.

<sup>29</sup> Simon Denyer, "China Charting Two New 'Silk Roads', Bypassing U.S.", *The Washington Post*, October 15, 2013.

<sup>30</sup> Former Iranian Ambassador Seyed Hossein Musavian says that that Iran "extended an official invitation" to me to visit Tehran just as I started as SRAP, although I had this only from a U.S. NGO. Musavian says we "dismissed" the overture. In fact, as I have noted here, we reached out three times to Tehran to open a dialogue. Since I was not likely actually to go to Tehran, no one will know what might have been accomplished had we found a venue acceptable to both sides. I regret that we were not able to open this channel. Seyed Hossein Musavian, "Engage with Iran in Afghanistan", in *The National Interest*, May 30, 2013, <http://nationalinterest.org/>

commentary/engag-iran-afghanistan-8528 and conversations with the author.

<sup>31</sup> Mitchell B. Reiss, *Negotiating With Evil: When to Talk to Terrorists*, (New York: Open Road Integrated Media, 2010); James Shinn and James Dobbins,

<sup>32</sup> *Afghan Peace Talks: A Primer*, (Santa Monica: Rand Corporation, 2011); Anatol Lieven, "Afghanistan: The Best Way to Peace", *The New York Review of Books*, February 9, 2012, pp. 30-32 and conversations with the author; Ben Connable and Martin Libicki, *How Insurgencies End* (Santa Monica: Rand Corporation, 2010); Richard E. Neustadt and Ernest R. May, *Thinking in Time* (New York: A Free Press, 1988).

<sup>32</sup> "Taliban Gitmo Deal is Swap for a Westerner", Josh Rogin, *The Cable*, March 13, 2012. [http://thecable.foreignpolicy.com/posts/2012/03/13/exclusive\\_taliban\\_gitmo\\_deal\\_is\\_swap\\_for\\_westerner](http://thecable.foreignpolicy.com/posts/2012/03/13/exclusive_taliban_gitmo_deal_is_swap_for_westerner)

<sup>33</sup> "Remarks to the World Affairs Council 2012 NATO Conference" by Secretary of State Clinton, Norfolk, Virginia, April 3, 2012.

<sup>34</sup> See, for example, David Ignatius, "Romney's Misfired Zinger on Taliban Talks", *The Washington Post*, January 17, 2012 and Steven Hadley and John Podesta, "Enough Already: It's Time to Talk to the Taliban", <http://www.foreignpolicy.com>, January 18, 2012

<sup>35</sup> Reiss page 244



Firefighters dressed in chemical, biological, radiological suits for a training exercise launched by U.S. Proliferation Security Initiative (PSI).

# Strategic Terrorism

## A Call to Action

BY NATHAN P. MYHRVOLD

**T**echnology contains no inherent moral directive—it empowers people, whatever their intent, good or evil. This has always been true: when bronze implements supplanted those made of stone, the ancient world got scythes and awls, but also swords and battle-axes.

The novelty of our present situation is that modern technology can provide small groups of people with much greater lethality than ever before. We now have to worry that private parties might gain access to weapons that are as destructive as—or possibly even more destructive than—those held by any nation-state. A handful of people, perhaps even a single individual, could have the ability to kill millions or even billions.

Indeed, it is possible, from a technological standpoint, to kill every man, woman, and child on earth. The gravity of the situation is so extreme that getting the concept across without seeming silly or alarmist is challenging. Just thinking about the subject with any degree of seriousness numbs the mind. The goal of this essay is to present the case for making the needed changes before such a catastrophe occurs. The issues described here are too important to ignore.

### The Power of the Stateless

For generations, the biggest menaces to our nation have been other nuclear-weapons states, especially the Soviet Union and China. Russia is on a much less confrontational path than the USSR was in its day, but China will soon rival the United States as an economic superpower. It will outgrow us, but does China really pose a military threat? After all, launching an attack that might kill a million Americans would trigger a retaliatory attack that might kill 100 million Chinese. What's more, most of those million Americans would be wearing clothes and digital watches, and buying consumer items made in China. Killing your best customers just isn't good business, and besides, they are already on a path to great wealth and success. A direct military attack from China seems very remote.

Failing nation-states—like North Korea—which possess nuclear weapons potentially pose a nuclear threat. Each new entrant to the nuclear club increases the possibility this will happen, but

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this problem is an old one, and one that existing diplomatic and military structures aim to manage.

The newer and less understood danger arises from the increasing likelihood that stateless groups, bent on terrorism, will gain access to nuclear weapons, most likely by theft from a nation-state. Should this happen, the danger we now perceive to be coming from rogue states will pale in comparison.

The ultimate response to a nuclear attack is a nuclear counterattack. Nation states have an address, and they know that we will retaliate in kind. Stateless groups are much more difficult to find which makes a nuclear counterattack virtually impossible. As a result, they can strike without fear of overwhelming retaliation, and thus they wield much more *effective* destructive power. Indeed, in many cases the fundamental equation of retaliation has become reversed. Terrorists often hope to provoke reprisal attacks on their own people, swaying popular opinion in their favor.

The aftermath of 9/11 is a case in point. While it seems likely that Osama bin Laden and his henchmen hoped for a massive overreaction from the United States, it is unlikely his Taliban hosts anticipated the U.S. would go so far as to invade Afghanistan. Yes, al-Qaeda lost its host state and some personnel. The damage slowed the organization down but did not destroy it. Instead, the stateless al-Qaeda survived and adapted. The United States can claim some success against al-Qaeda in the years since 9/11, but it has hardly delivered a deathblow.

Eventually, the world will recognize that stateless groups are more powerful than nation-states because terrorists can wield weapons and mount assaults that no nation-state would dare to attempt. So far, they have

limited themselves to dramatic tactical terrorism: events such as 9/11, the butchering of Russian schoolchildren, decapitations broadcast over the internet, and bombings in major cities. Strategic objectives cannot be far behind.

### The Technological Rise of Terrorism

Trends in technology are shaping the rise of stateless power. Computers, the internet, cellular and satellite telephones, and satellite TV give people unprecedented access to one another. This connectivity is mostly good. It enriches daily life and millions of lawful pursuits, including many that save lives. It also, however, enables a small group of dangerous people scattered around the world to organize themselves more effectively than ever before. Terrorist groups can now assemble a command-and-control structure that previously would have been available only to a wealthy nation-state.

Communication has value to terrorists beyond command, control, and coordination. Terrorism works by instilling terror in large numbers of people and that goal requires mass communication. The international media have become, albeit reluctantly, the global marketing department for today's terrorists. Tragedy anywhere reaches our living rooms with amazing speed and clarity. Competition to get the biggest splash on CNN and al-Jazeera will ultimately lead to an escalation and elaboration of terrorist acts.

The internet and other communications technologies abet terrorist recruiting and fundraising as well. Nation-states finance their military ambitions through taxes and conscription. Stateless groups can't do the same, at least not in a conventional way. Instead, stateless actors solicit donations on myriad web pages and transfer funds via cell phone by



exploiting informal *hawala* banking systems. They use the internet to recruit the disaffected.

The new range of contact afforded by modern communications changes the nature of terrorism. Instead of being local, it is now global in its effects. Modern communications technology even offers terrorist groups the hope of conquering lands in a 21<sup>st</sup> century fashion. They do not seek to capture territory per se but rather to capture power over a population through intimidation or mass murder. The incredible reach of modern communications gives al-Zawahiri, Nasrallah, and their ilk an influence that crosses borders and transcends the local political structure.

Indeed, we seem to be entering the golden age of stateless organizations. During this age, the military supremacy and political influence of nation-states will be challenged by much smaller groups that can wield both political influence and power with cruelty and without the apparatus of a state. As a result, massive terrorist attacks like 9/11—as well as low-level events such as suicide bombings, kidnappings, and assassinations—will occur with greater frequency. Bad as that is, it is unfortunately only part of the story.

### The Democratization of Death Dealing

Throughout history the lethality of weapons technology has inexorably increased. Yet a general rule prevailed: successively more lethal weapons required successively larger investments. Nuclear weapons were the zenith of this arc. A single device could destroy an entire city, but also cost as much as an entire city and was far harder to build.

The first nuclear explosives were created by the three-year Manhattan Project, which at its peak employed 130,000 people. It cost more than \$2 billion in the currency of the

time—the equivalent, in 2013, of more than \$26 billion. But that is just money. To put the engineering and industrial effort in perspective, the project became comparable in manpower and capital cost to the entire prewar U.S. automobile industry.

The cost of nuclear weapons has had two stabilizing effects. First, the list of nations that could afford to play the nuclear game was very small. Second, each leader with a finger on “the button” bore the full responsibility for a large and complex state—each understood that using the weapons would bring a very dangerous reprisal. The inescapable equation tying highly lethal weapons systems to high cost and complexity meant that the power to devastate was available only to the richest and most sophisticated states—until now.

Two major factors change this equation. The first is that nuclear weapons are now in the hands of countries like Pakistan, North Korea, and perhaps soon Iran. These countries have an official posture toward United States that is hostile, and each has internal elements even more radical than their official policy, some supporting state sponsored conventional terrorism. It is hard to discount the possibility that their nuclear weapons will be stolen, or diverted to terrorists by corrupt, ineffective or ideologically motivated elements in their own governments. Stealing is much cheaper than building, and it could be a route for nuclear weapons to reach stateless groups.

A nuclear weapon smuggled into an American city could kill between 100,000 and 1,000,000 people, depending on the nature and location of the device. An optimist might say that it will take decades for such a calamity to take place; a pessimist would point out that the plot may already be under way.

## MYHRVOLD

The second major factor is that modern technology allows very small groups the ability to create immensely powerful weapons with small teams of people and trivial budgets compared to nuclear weapons. Chemical weapons, particularly nerve agents, are part of the terrorist arsenal. Sarin, a frighteningly lethal poison was produced and released in locations in the Tokyo subway system in 1995 by Aum Shinrikyo, a Japanese religious cult. The attack injured nearly 3,800 people and killed 12. A botched distribution scheme spared many of the intended victims; better dispersal technology would have resulted in a vastly higher death toll. Experts estimated that Aum Shinrikyo had the ingredients to produce enough Sarin to kill millions of people in an all-out attack.

Frightening as such possibilities are, nuclear bombs and chemical agents pale in lethality when compared with biological weapons. The cost and technical difficulty of producing biological arms has dropped precipitously in recent decades with the boom in molecular biology. A small team of people with the necessary technical training and cheap equipment can create weapons far more terrible than any nuclear bomb.

Taken together, these trends utterly undermine the lethality-versus-cost curve that existed throughout history. Access to extremely lethal agents—even to those that may exterminate the human race—will be available to nearly anybody. Access to mass death has been democratized; it has spread from elite superpowers to nearly anybody with modest resources. Even the leader of a ragtag, stateless



At the UN in 2003, U.S. Secretary of State Colin Powell holds a model vial of anthrax, while arguing that Iraq is likely to possess WMDs.

group hiding in a cave—or in a Pakistani suburb—can potentially have “the button.”

### Turning Life Against the Living

The least-deadly biological weapons are those that are not contagious. These were developed for use in military conflicts during the 20th century. Because the pathogens used are not contagious, they are considered controllable: they have at least some of the command-and-control aspects of a conventional weapon. They are deadly but do not cause epidemics.

Anthrax is the most famous example. In early 20th-century outbreaks, it killed nearly 90 percent of those infected by inhaling bacterial spores. In the fall of 2001, anthrax was used in a series of mail attacks in the United States. Even with advanced antibiotic treatment, 40 percent of those who contracted inhalational anthrax died.<sup>1</sup>

That crime is believed to have been the work of a lone scientist who sought to publicize the threat of a biological attack and boost funding for his work on Anthrax vaccines. Indeed, the letters carrying the spores thoughtfully included text warning of anthrax exposure, recommending that the recipient seek immediate treatment.

What if such an attack were made instead by a real sociopath? Theodore J. Kaczynski, known as the “Unabomber,” was brilliant enough to earn a Ph.D. in mathematics from the University of Michigan, yet was mentally disturbed enough to be a one-man terrorist cell operating for nearly two decades. Kaczynski had enough brain to use sophisticated methods, but because he opposed advanced technology, he made untraceable low-tech bombs that killed only three people. A future Kaczynski with training in microbiology and genetics, and an eagerness to use the

destructive power of that science could threaten the entire human race. Indeed, the world has already experienced some true acts of biological terror.<sup>2</sup>

A 2003 study found that an airborne release of one kilogram of an anthrax-spore-containing aerosol in a city the size of New York would result in 1.5 million infections and 123,000 to 660,000 fatalities, depending on the effectiveness of the public health response.<sup>3</sup> A 1993 U.S. government analysis determined that 100 kilograms of weaponized anthrax, if sprayed from an airplane upwind of Washington, D.C., would kill between 130,000 and three million people.<sup>4</sup> What is more, because anthrax spores remain viable in the environment for more than 30 years, portions of a city blanketed by an anthrax cloud might have to be abandoned for years while extensive cleaning was done.

Unfortunately, anthrax is not the worst case; indeed it is rather benign as biological weapons go. The pathogen is reasonably well understood, having been studied in one form or another in bio warfare circles for more than 50 years. Natural strains of the bacterium are partially treatable with long courses of common antibiotics if taken sufficiently quickly. Vaccination soon after exposure seems to reduce mortality further.<sup>5</sup>

But bioengineered anthrax that is resistant to both antibiotics and vaccines is known to have been produced in both Soviet and American bioweapons laboratories. In 1997, a group of Russian scientists even published the recipe for a super lethal strain in a scientific journal.<sup>6</sup>

Numerous other agents are similar to anthrax in that they are highly lethal but not contagious. The lack of contagion means that an attacker must administer the pathogen to

the people he wishes to infect. Thus, the weapon can be directed at a well-defined target, and with luck, little collateral damage will result.

Unfortunately, many biological agents are contagious and can spread quickly. Infectious pathogens are inherently hard to control because there is usually no reliable way to stop an epidemic once it starts. This property makes such biological agents difficult for nation-states to use as conventional weapons.

Smallpox, for example, is highly contagious and spreads through casual contact. Smallpox, eradicated in the wild in 1977, still exists in both U.S. and Russian laboratories.<sup>7</sup> Experts estimate that a large-scale, coordinated smallpox attack on the United States might kill 55,000 to 110,000 people, assuming that sufficient vaccine is available to contain the epidemic and that the vaccine works.<sup>8</sup> The death toll may be far higher if the smallpox strain has been engineered to be vaccine-resistant or to have enhanced virulence.

Moreover, a smallpox attack on the United States could broaden into a global pandemic. Planes leave American cities every hour of the day for population centers around the globe. Even if “only” 50,000 people were killed in the U.S., a million or more would probably die worldwide before the disease could be contained, and containment would probably require years of effort. As horrible as this would be, such a pandemic is by no means the worst attack one can imagine.

Advances in molecular biology have utterly transformed the field in the last few decades. High school biology students routinely perform molecular-biology manipulations that were impossible even for the best superpower-funded program back in the heyday of biological-weapons research.

Tomorrow’s terrorists now have far more deadly bugs from which to choose.

Consider this sobering development: in 2001, Australian researchers working on mousepox, a nonlethal virus that infects mice, discovered that a simple genetic modification transformed the virus.<sup>9</sup> Instead of producing mild symptoms, the new virus killed 60 percent of mice, even those already immune to the naturally occurring strains. The new virus was unaffected by existing vaccines or antiviral drugs. A team of researchers at Saint Louis University, led by Mark Buller, picked up on that work and, by late 2003, found a way to improve on it. Buller’s variation was 100 percent lethal.<sup>10</sup> While the genetically altered virus is not contagious, it is quite possible that future tinkering will change that property, too.

This case is just one example. Biotechnology is advancing so rapidly that it is hard to keep track of all the potential threats. A virus genetically engineered to infect its host quickly but generate symptoms slowly—say, only after weeks or months—and to spread easily through the air or by casual contact would be devastating. It could silently penetrate the population before unleashing its deadly effects. An epidemic would be almost impossible to combat.

That terrorist groups could achieve this level of technological sophistication may seem far-fetched, but keep in mind that it takes only a handful of individuals to accomplish these tasks. Indeed, terrorists may not have to develop it themselves: scientists may do so first and publish the details.

Never has lethal power of this potency been accessible to so many, so easily. Hundreds of universities in Europe and Asia have curricula sufficient to train people in the skills necessary to make a sophisticated biological

weapon, and hundreds more in the United States accept students from all over the world. The repercussions of their use are hard to estimate. One approach is to look at how the scale of destruction they may cause compares with that of other calamities that the human race has faced.

**The Grim Calculus of Mass Mortality**

Grappling with the mind-numbing statistics of mass death is nearly unfathomable. However, using a logarithmic scale to count fatalities by powers of 10 can encompass the large range of possibilities. Thus, an event that kills 1,000, or

$1 \times 10^3$ , people would be magnitude 3—M3.0 for short. Table 1 gives some examples.

The first thing that is apparent from these tabulated values is that some causes of death have much greater psychological impact than others, regardless of the number of people killed. For example, 9/11 ranks below annual U.S. traffic deaths—indeed, almost as many people perish in a typical month on American highways as died in the 9/11 attacks. So why were we so worked up?

We have had over 100 years to become used to the fact that roads are dangerous and we expect a certain level of risk when driving.

Table 1 : Relative magnitudes of human populations and mass fatalities, expressed as a power of 10

EVENT OR POPULATION	POPULATION OR FATALITIES	MAGNITUDE
Total World Population	7,000,000,000	9.8
Population of China	1,350,000,000	9.1
Population of the United States	313,000,000	8.5
HIV/AIDS Cumulative Deaths + Currently Infected	64,000,000	7.8
World War II, Total	56,125,262	7.7
Influenza Pandemic of 1918, Total	20,000,000	7.3
World War I, Total	14,958,886	7.2
Deaths In U.S. From All Causes In 2011	2,468,435	6.4
Vietnam Conflict, Total	1,900,000	6.3
AIDS Deaths In 2011	1,700,000	6.2
Worldwide Annual Traffic Deaths In 2011	1,400,000	6.1
Rwandan Genocide of 1994–1995	1,000,000	6.0
Influenza Epidemic of 1918 (U.S. Only)	675,000	5.8
World War II (U.S. Only)	500,000	5.7
Indian Ocean Tsunami of 2004	230,000	5.4
World War I (U.S. Only)	116,516	5.1
Nuclear Bombing of Hiroshima	90,000	5.0
Vietnam Conflict (U.S. Only)	58,153	4.8
Traffic Deaths in 2011 (U.S. Only)	29,757	4.5
Murders in 2011 (U.S. Only)	14,612	4.2
September 11th Terrorist Attack	2,996	3.5
Aircraft Crash Deaths in 2011 (U.S. Only)	494	2.7

Sources: U.S. Census Bureau, UNAIDS, wikipedia, U.S. National Center for Health Statistics, U.S. Department of Transportation, Federal Bureau of Investigation, National Transportation Safety Board, U.S. Department of Defense

Death coming as a bolt from the blue tends to get our attention. This attention is the same sort that terrorists wish to inspire through dramatic acts of violence. Which would be easier to perpetrate, one M5.0 event or thousands of individual attacks? All factors point to one large strike, which, depending on what was done, could very well push the death toll toward M6.0. At some point, terrorists will figure this out.

**Would They Do It?**

Would terrorists really try to kill millions, or will they stick to convincing their own youth to blow themselves up in small-scale suicide bombings? Several lines of reasoning suggest that stateless terror groups will acquire and use weapons having high-M impact. Table 2 shows the possible M impact of terrorist weapons.

Stateless groups have the same level of ambition as nation-states and ought to be treated as operating on the same footing. Was it rational to worry that the Soviet Union would launch a nuclear war to further their communist hegemony or simply to destroy the United States—or out of fear that we would attack them in this way first? Dealing with those questions consumed \$1 trillion of defense spending and shaped the Cold War.

When compared to the Soviets, the risk that al-Qaeda or some future group will use high M-impact weapons seems higher on every level. Their geopolitical goals are more ambitious. The ideology is more extreme. The vulnerability to counterattack or reprisal is low. Terrorists have demonstrated a shocking degree of ruthlessness. Under any rational theory of risk, these foes must be considered likely to act.

Plus, it is no secret that the United States aims to exterminate al-Qaeda and similar terrorist groups—and rightly so. With revenge and self-preservation on their minds, our primary adversaries are not likely to show us unnecessary mercy. Additionally, terrorism survives by making a big impact; when the world gets desensitized to car bombs, mass shootings, and beheadings, the temptation to one-up the last attack increases.

The belief that terror groups will not use terrible weapons if they get them seems foolish in the extreme. To borrow a phrase from *A Streetcar Named Desire*, to hold this belief is, in effect, to rely “on the kindness of” terrorists. Any rational analysis must assign a substantial amount of the terror risk to large-scale, high-magnitude events. Yet that is not how our defenses are organized and not how we are spending our resources. Instead, we focus most

**Table 2 : Range of fatalities plausible for terrorist attacks of various kinds**

Terrorist Event	Low M	High M
Shooting Rampage	1.0	1.5
Suicide Bombing	1.0	2.5
Truck Bombing	2.0	3.0
Aircraft As Weapon	3.0	4.0
Dirty Bomb	3.0	4.0
Nuclear Weapon	5.0	6.0
Neurotoxin Attack	4.0	6.5
Natural Virus Pandemic (U.S. Only)	5.0	7.0
Smallpox Attack (U.S. Only)	4.7	6.5
Natural Virus Pandemic	6.0	8.0
Smallpox Attack	6.0	8.0
Pandemic From Engineered Bioweapon	6.0	10
End Of Civilization	9.5	10
Extinction of <i>Homo Sapiens</i>	9.8	10

of our counterterrorism efforts on thwarting small-scale attacks.

### Tactical vs. Strategic Counterterrorism

The enormous range of possible terrorist actions mirrors a situation encountered in modern warfare. Military commanders must confront war at many levels, from hand-to-hand combat to global thermonuclear war. That broad range is difficult to cover with a single organization. The military answer is to split the problem into pieces by both scale and approach. The division by scale is usually phrased as the difference between strategic and tactical.

Tactical terrorism is important to fight. We want to keep hijackers off airplanes and suicide bombers out of shopping malls. Referring to such problems as tactical does not suggest they are unimportant. Rather, it highlights the need to make even greater efforts to thwart strategic terrorism.

Strategic counterterrorism is another matter altogether. The security forces inside the United States are ill prepared for the threat from terrorists intent on using contagious biological agents or nuclear weapons. By the time such terrorists have arrived at the airport or harbor, they have all but won. Are U.S. authorities doing enough to combat terrorism at the strategic level? The indirect evidence indicates that the answer is most certainly no. Aside from a few inadequate efforts to screen a fraction of ships and aircraft overseas before they depart for American shores, the problem is simply not being managed.

### Effective Threat Management

A basic principle of management accountability is to ask the following question: Who is the most senior person in the organization

whose full-time job is dedicated to function X? So ask, "Who is the most senior government official whose full-time job is defending the United States against strategic terrorism?" In the worst possible case, no single leader is focused solely on this problem. Instead, the people who are focused exclusively on terrorism are relatively low-level government workers employed in different departments and agencies with conflicting missions.

Contrast this with our efforts to prevent strategic nuclear war, for which an elaborate and well-defined chain of command exists. We have a comprehensive set of early-warning systems and contingency plans that cover every foreseeable eventuality. An extremely well-defined set of people have full-time jobs preparing for and responding to a strategic nuclear attack.

Where are our early warning systems for strategic terrorism? Who is in charge of building them? What is the remedy if an attack takes place? When it comes to devising a response to biological terrorism, who is in charge? Is this an issue for the Centers for Disease Control and Prevention? Or should it be handled by the uniformed Public Health Service? Or is the Department of Homeland Security (DHS) supposed to be organizing hospitals? Currently, token and understaffed efforts are fragmented across dozens of government agencies.

### The Sleeping Dogs of War

To understand the government agencies responsible for defending us against terrorism, we must consider the handful of men that influenced the building of American intelligence and defense institutions—men like Hitler, Tōjō, Stalin, Khrushchev, and Brezhnev.

Prior to World War II, the United States turned inward and steadfastly ignored the threats from Germany and Japan. The assault on Pearl Harbor (coupled with dogged scheming by Franklin Delano Roosevelt egged on by Winston Churchill) persuaded America to confront the threat from Japan and Germany. In a very real sense, Tōjō and Hitler were, in effect, the fathers of the modern American defense establishment. Stalin took over where Hitler and Tōjō left off and launched us into the Cold War. This was a long and tiring struggle. If at any point American interest or determination flagged, Khrushchev was there to bang his shoe on the table to get our attention.

Following the dissolution of the Soviet Union in 1991, no adversary has so dominated our attention. Inertia and the absence of a compelling threat have kept the large bureaucracies in the defense establishment doing largely what they had done before. The 9/11 attacks and subsequent military operations in Afghanistan and Iraq have brought some changes. But the vast machinery of the Cold War, built up over five decades, has yet to retool.

If our future threats were the same as those of the past, we could stay this course. Unfortunately, there is every reason to believe that the most significant dangers we will face will be completely new. The precautions we take must be novel as well. The steps necessary to prevent nuclear and biological terrorism are qualitatively different from those needed to plug the holes that allowed 9/11 to happen. Yet our military forces and government agencies seem not to recognize this difference. Nearly all personnel and resources are focused on the immediate problems posed by tactical issues in Afghanistan and by low-level terrorism directed at the United States.

## The Long View, Backward and Forward

Your car has a very large windshield, through which you can see the road ahead, but only a few small mirrors to view what is coming up behind. That's because the threat is largely from the front, the direction in which you are moving.

A bureaucracy (particularly one that exists within a democracy) has the opposite arrangement: an enormous rearview mirror and just a tiny peephole facing forward. The structures and mandates of bureaucracies are based on what has already happened, not what will happen. They cite history to justify their operations. Actions based on a view into the future are speculative and open to criticism, especially when the problems of the present loom large. The only force with a proven ability to shake the complacency inherent in bureaucracies is a determined adversary that persistently and openly fights or antagonizes us.

For much of the last decade, both we and al-Qaeda have been distracted by Iraq and Afghanistan. For al-Qaeda, attacks in Afghanistan are cheaper and easier to mount than direct operations against the United States. Attacking the U.S. mainland now would only antagonize the American public and recommit us to the war on terrorism.

Eventually this strategic calculus will change. Whether it changes tomorrow or in 2033, it is hard to believe that another major attack won't occur within a generation. If the next major incident is "only" a 9/11-scale (M3.5 attack) it will be traumatic, but our society will survive largely intact. The problem is that we are not apt to be that lucky.

The clear pattern of al-Qaeda—from Somalia, to Khobar Towers, to the African embassy bombings, to the U.S.S. Cole, to the



World Trade Center and the Pentagon— is one of infrequent attacks which escalate in severity. The next one could be an M5.0 or M6.0 nuclear or biological event. Waiting until it occurs to begin our preparations is utterly irresponsible, but that is just what we're doing.

Meanwhile, we are only beginning to look beyond al-Qaeda to the groups that will succeed this faltering foe. This is alarming when one considers that 20 years ago, neither al-Qaeda nor any other radical Islamic organization were on anybody's list of major threats to U.S. security.

Twenty years from now, new terrorist groups and causes will exist. Radical Islam is likely to remain a concern in 2033, but it won't be the only one. Some of today's players will leave the international arena, and new ones will enter. But strategic terrorism is here to stay.

It is crucial that we realize that the fundamental problem is not limited to a specific organization like al-Qaeda or to a specific ideology like radical Islam. Bin Laden is dead and gone, yet this general threat persists. Just as managing nuclear weapons became a permanent part of the world order after World War II, combating strategic terrorism must become a permanent part of ensuring global security today. This challenge demands dramatic shifts in American defense and foreign policy. It isn't a temporary crisis. It requires a fundamental and long-lasting adjustment to the new state of affairs. The investment needed is similar in scale to that spent during the Cold War—hundreds of billions of dollars.

This doesn't mean a Cold War revival. The Cold War was about building a deterrent—implementing the strategy of mutually assured destruction for any party foolish enough to



Kohbar Towers bombing in Dhahran, Saudi Arabia on 25 June 1996

initiate nuclear hostilities. It was relatively straightforward: create a defensive deterrent by building ever more terrible offensive weapons in multiple redundant systems. The war on terror is fundamentally different. We cannot win by developing more powerful offensive weapons than our adversaries. Deterrence of the old sort simply does not work.

The war on terror is also marked by the growing irrelevance of nation-states. The nation-state is the fundamental unit of international diplomacy, law enforcement, and discourse. We assume a country is responsible for its sovereign territory. When a criminal crosses a national border, we rely on the country he or she then resides in to handle the arrest, and we go through a formal extradition process to get that nation to hand over that criminal. This hierarchical approach is rendered useless when a tiny group can create weapons that threaten the population of entire continents.

A strategic terror attack, whether nuclear or biological, will very likely be planned by people residing in Western Europe or the United States—countries with strict laws protecting individual freedoms. Terrorists in a desert outpost in Sudan or a cave on the Pakistani tribal frontier have to worry about Special Forces commandos, Tomahawk cruise missiles, and Hellfire rockets. In Paris, Munich, or San Diego, they won't have any such concerns.

Clearly we need new international tools to combat strategic terrorism. The aftermath of World War II and the Cold War created a number of new international groups and structures—including the United Nations (UN), the North Atlantic Treaty Organization (NATO), and the Warsaw Pact. These international groups were a direct reaction to the challenge posed by the threat of nuclear war and the emergence of highly polarized communist and

capitalist ideologies. We must develop a new set of extra-national organizations, perhaps akin to NATO or the UN, to cope with the new threat of strategic terrorism.

### **The Audacity of Courage**

Studying this issue without becoming depressed about our prospects is challenging. The challenge is not impossible to solve, just very difficult. When discussing bioterrorism, I'm frequently told that I'm being a scaremonger, just like those who exaggerated the danger of global nuclear war—which didn't happen. But if nuclear weapons had not been widely feared, would all those actions that have been taken to avoid their use been done? Nuclear weapons truly scared people—hawks and doves, Soviets and Americans alike. But frightening people by itself isn't enough. Instead, fear has to be mixed with something more actionable—a plan to allay the fear.

The problems of strategic terrorism can be managed, but it will be a multi-decade struggle that will affect as many aspects of people's lives as did the Cold War. Indeed, the Cold War provides us with a useful model. One can list the ways in which it affected scientific research, intelligence gathering, military planning, diplomacy, public policy-making, and other activities. Each now has a set of challenges that must be met.

### **The Research Challenge**

In most wars, scientific research is a secondary activity rather than a frontline effort. This approach is emphatically not appropriate in the struggle against strategic terrorism, a primarily technological and scientific battle. For more than two decades, we have allowed an unprecedented explosion of work in molecular biology to occur without providing substantial

funding for understanding and preventing the misuse of this knowledge.

Scientists routinely publish results that either implicitly or, in many cases, explicitly contain recipes for mayhem. Yet, no funding agency has devoted substantial resources to understanding these threats in detail or to developing countermeasures against them. Ironically, this sort of research is precisely the kind at which our society excels. But developing solutions will be impossible if we don't identify the problems and do the work.

As it stands, we do neither. The reason is simple enough—little, if any, funding is available for countermeasures research. The National Institutes of Health (NIH), the National Science Foundation, and other government grant-making agencies provide research funding in biology and medicine to combat natural scourges, but not bioterrorism. Why? Because plenty of here-and-now diseases, such as cancer, diabetes, and AIDS, are vying for their attention. Spending money to fight speculative future threats is far more risky and, hence, is rarely done.

The only way to change this situation is to forge a comprehensive plan for research, development, and deployment of technologies to detect, cure, or prevent a biological attack. In addition to creating counterterrorism strategies, a well-funded research initiative to develop bioterrorism defenses would give an enormous boost to biomedical research in some areas that may ultimately prove just as useful. At the moment, all of humanity is susceptible to natural infections that are very similar in some ways to those that might be unleashed during an act of bioterrorism: a novel strain of pandemic influenza or an emergent pathogen such as the one that causes SARS. Counter-bioterrorism research could

lead to broad-spectrum antiviral drugs and vaccines or to monitoring systems for detecting outbreaks early. We could expect enormous dividends from this research in areas well outside of bioterrorism defense itself.

Scientists will rise to this challenge if given adequate resources—indeed the United States excels at such scientific and technological research. Still, considerable patience will be required: countering strategic terrorism isn't a single, isolated problem. Instead, it is hundreds of disparate problems.

However, the situation is not hopeless. The R&D capabilities of the United States are still unmatched in the world. A full description of the research agenda is beyond the scope of this treatment, but it could be put together in short order.

### The Intelligence Challenge

Preventing nuclear war and fighting common crime are similar in some ways. Both efforts typically exploit the principle of deterrence by inflicting punishment after the fact. This approach works well when the deterrence is real—when it is clear that the probability of punishment or retaliation is high. With strategic terrorism, we already know we cannot retaliate effectively.

Besides deterrence, the other main approach to security is guarding: preventing crime by having forces on the scene that stop criminals or attackers in their tracks. Guarding is used quite a bit in counterterrorism—air marshals on flights, security screeners in airports, and bomb-sniffing dogs at large events.

Unfortunately, guarding does not prevent strategic terrorism. If the goal of a terrorist is to spread an infectious disease in the United States, it is simple to put a few infected volunteers on a plane headed into our country. It

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would be difficult for security to notice anything amiss. The terrorists wouldn't be obviously sick or carrying suspicious items. Even if a way existed to detect such attackers, by the time someone found them in the United States, it would already be too late.

Even with nuclear, chemical, or noncontagious bio warfare, guarding the country is of limited use. Intercepting a nuclear bomb in a shipping container works only if you stop it in a place you don't mind losing if the weapon detonates. Having a nuclear bomb explode in a Port Authority facility in New Jersey may be marginally better than having it explode in midtown Manhattan, but it would be a Pyrrhic victory.

The only way to beat strategic terrorists is to go after them, either in their home territory or, if they are already here, before they have built a sufficiently dangerous weapon. We need to strike preemptively. The Iraq War, however, has given preemption a bad name. Destroying Saddam Hussein's weapons of mass destruction was the goal, yet investigators ultimately found that he didn't have any. This not only discredits the intelligence process that led us into Iraq, it discredits preemption itself. Both the country and the world will be highly skeptical of any rush to a preemptive attack. Most preemptive action will not be at the level of a full-scale war and thus will require lower thresholds of certainty. Nevertheless, any sort of preemptive attack places tremendous demands on intelligence gathering—demands that our intelligence community, in its current form, cannot meet.

The need to battle strategic terrorists preemptively sets the bar for 21<sup>st</sup>-century intelligence services: they must provide information of sufficient quality and timeliness to enable policy makers to decide whether or not to act.

The intelligence community needs a complete bottom-up review to determine whether its structure and methodologies match present and future needs. The new approach will require large and unpopular budget increases. Existing program budgets will need to be redistributed. Congress will vigorously defend current projects affecting their constituents and contractors will howl. Action is nevertheless imperative.

### The Military Challenge

Gathering intelligence is only the first step. The second is what to do with it when it indicates a threat. What is the threshold for action? What sort of team do you send in? What are



Gerald Nino

CBP officer with his explosive detection dog clears vehicles entering the Super Bowl area.

the risks of collateral damage? What if we're wrong?

The primary military challenge is to develop enough depth and breadth of new forms of special operations to give decision-makers an appropriate set of options. Taking out a terrorist camp that is building a nuclear weapon or brewing up smallpox is a very specific challenge. What if that camp is in a city? What if it is in an American city?

First, we need to develop new weapons. For example, our military lacks practical weapons that can destroy a bioweapons facility in a way that guarantees the contents are sterilized. The so-called "surgical" air strikes of the past have improved greatly but a tremendous amount of collateral damage still occurs. Weapon systems must be rethought and optimized for a wide range of special operations, from small-scale covert action to large-scale efforts such as the current one in Afghanistan.

The U.S. military also needs to retool its organization. Troops involved in special operations—Rangers, Green Berets, Delta Force members, and so forth—have been treated as adjuncts to the "real" forces. This is a World War II mindset and is unlikely to be useful. Instead, attacks will often use special-operations units without involving conventional forces. The years since 9/11 have seen an increase in the size and importance of special operations, but this increase appears to be a small down payment on the capabilities the future will demand. It may even make sense to unify all special operations under a separate branch of the armed services, one more on par with the Army, Navy, Marines, and Air Force than today's Special Operations Command (SOCOM).

The reach of military operations inside the United States must also change. Most acts of

terrorism are treated as criminal activities and are left to local SWAT teams or the FBI. It is unrealistic to expect such forces to have the training and expertise to deal with strategic threats. Instead, we need a nationally trained and nationally funded force, even more developed than the FBI's WMD Directorate and Critical Incident Response Group (CIRG).

Strategic terrorism spans a wide range of possibilities from a criminal act by one or a small number of people to an all-out invasion. Our military must be prepared to handle the full range of possibilities, domestically and internationally.

### The Domestic-Policy Challenge

American jurisprudence is firmly grounded in the sentiment expressed by Sir William Blackstone, an 18th-century jurist: "it is better that ten guilty persons escape than that one innocent suffer." Thus, there will be a seemingly insurmountable clash between the American tradition of liberal freedoms for its citizens and the extreme circumstances of strategic terrorism. There is substantial logic to the idea that trampling the rights of millions of citizens is, in aggregate, worse than letting a small number of criminals escape justice. The implicit calculus of harm is that whatever havoc a guilty party may wreak is less odious to society than the damage that may be caused by prosecuting the innocent or abridging their rights through unreasonable search and seizure or other police behavior.

When the Founding Fathers established the Constitution and the Bill of Rights, constraining the power of the state was a radical, untested, and unprecedented experiment. Liberal protection of human rights, pioneered on a large scale first in the United States and

then exported to Europe and other developed nations, has been a great success.

Indeed, the project has expanded substantially. The actions of the U.S. Congress in writing new laws, of the courts in interpreting the Constitution, and of advocacy groups such as the American Civil Liberties Union and a very active criminal-defense bar have expanded the civil rights of Americans. Indeed, the number of rights and privileges enjoyed by Americans has steadily increased over time.

This entire endeavor is, however, called into question by the nature of strategic terrorism, whose potential for harm is enormous enough to demand a reexamination of the quantitative bargain. We need to ask, “Is the cost to society in lives really worth more than the cost of constraints on civil liberties?”

Sir Blackstone’s trade-off implicitly assumes that the harm done by causing one innocent man to suffer is worse than whatever harm the ten guilty men may do with their freedom. Is he still correct if one of those ten guilty men is a strategic terrorist who could kill millions of innocent Americans?

The purely principled tend to reject quantitative arguments—instead, they regard civil liberties as absolutes that must not be subjected to a cost-benefit equation. But, morally speaking, can that really be true? Can those charged with protecting public safety really make absolute tradeoffs without considering that millions of deaths could result? Civil-rights advocates say, “yes!” They contend that legal precedents indicate that once you allow some backsliding, you step onto the slippery slope.

These are very serious issues that need to be weighed carefully and rationally, but Americans tend to lurch from one extreme to another. During peacetime, we expand rights

steadily. Then during war, we have routinely violated those rights in ways that were not simply unconstitutional but also ineffective and unnecessary. One of the most shameful examples was the internment of Japanese-Americans during World War II. The modern version of this debate focuses on the Patriot Act, the definition of torture in military and CIA interrogations, the detainment of “enemy combatants” at Guantanamo Bay, or the scandals about warrantless wiretapping and e-mail interceptions within the United States by the National Security Agency.

Inept, incompetent, or illegal government actions, like the deplorable treatment of Iraqi prisoners at Abu Ghraib, cast a long shadow and reinforce the point of those who seek to defend our civil liberties. The set of rights we are willing to surrender to the government is, in large part, a function of how competent and fair we think the government is. Unfortunately, ample evidence exists that the government can be unworthy of our trust.

The domestic-policy challenge is to tackle the issue while rationally steering a balanced course between protecting citizens from misuse of government power and protecting them from strategic terrorism.

### **The Diplomatic Challenge**

Whatever trade-offs we make in our country, the approach we take to strategic terrorism is important in the international setting. How can we create diplomatic relationships to help stop strategic terrorism?

The answer to this question may seem straightforward—cooperation in addressing nuclear or biological terrorism seems to make sense for all concerned. But it is never quite that simple. Most countries will continue to have conflicting interests. This situation can be

seen clearly in the international debate about the wars in Iraq and Afghanistan. Political, diplomatic, and other forms of cooperation exist today and include some cooperation at the intelligence and counterterrorism level. But if we are to succeed against strategic terrorism in the long run, much more cooperation is required.

By analogy, the prescription for strategic terrorism would be to extend NATO-like cooperation from the military to intelligence and counterterrorism organizations. With the set of nations currently in NATO, this approach may be possible. However, future strategic-terrorism alliances would have to include Russia and China, as well as some Islamic countries. Is such cooperation possible and practical?

## Conclusion

Several powerful trends have aligned to profoundly change the way that the world works. Technology now allows stateless groups to organize, recruit, and fund themselves in an unprecedented fashion. That, coupled with the extreme difficulty of finding and punishing a stateless group, means that stateless groups are positioned to be lead players on the world stage. One small group can be as lethal as the largest superpower. Such a group could execute an attack that could kill millions of people. It is technically feasible.

Our defense establishment was shaped over decades to address what was, for a long time, the only strategic threat our nation faced: Soviet or Chinese missiles. More recently, it is retooling to address tactical terror attacks like 9/11, but the reform process is incomplete and inconsistent. An effective defense will require rebuilding our military and intelligence capabilities from the ground up. Yet strategic

terrorism has received relatively little attention in defense agencies, and the efforts that have been launched are fragmented.

History suggests that the only thing that shakes America out of complacency is a direct threat from a determined adversary that confronts us by repeatedly attacking us or hectoring us for decades. Our present foes are not doing that. Instead, they wait patiently between attacks. For now, they are satisfied with tactical terrorism, but eventually, they will have the means, opportunity, and motive to turn to strategic-terror weapons.

We will most likely continue to lumber along on our current path, addressing some issues and ignoring others. Then the terrorists will launch the next attack. With luck, we will detect it in time to prevent a major disaster, but a more likely scenario is that a strategic-terror attack in the next decade or so will kill between 100,000 and one million Americans. Then, we will surely get serious about strategic terrorism.

Or we could start now. **PRISM**

## NOTES

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# Hybridization of Conflicts

BY ALAIN BAUER

**A**t a basic level, historically wars and conflicts were easy to understand: a cause, an enemy, a war. Things seemed clear, consistent, and predictable. There was symmetry and each side had its counterpart. The enemy was able to negotiate. It was all at least somewhat straightforward, if tragic.

This was the case for centuries – up until the fall of the Berlin Wall. Then in the early 1990s a nebula appeared that we Occidentals referred to as “al-Qaeda” (or more formally the “World Islamic Front for Jihad against Jews and Crusaders” – less effective for marketing, but more accurate). The emergence of al-Qaeda irreversibly altered the conventional and often automatic, “terrorism / international state sponsor” analysis. Terrorists no longer had need of state sponsorship, and terrorism became de-linked from strictly nationalist motives. Terrorism evolved beyond the ETA (Euskadi Ta Askatasuna, a Basque separatist organization), the IRA (Irish Republican Army), or PLO (Palestinian Liberation Organization) type of organization.

France has had the misfortune to experience revolutionary terrorism since its own revolution of 1789, and indeed the term terrorism, derives from the French “terrorisme,” which was used to describe the atrocities committed by the French government during the Reign of Terror. This paper reviews the revolution in terrorism affairs since the 1960s.

The post-war fight against terrorism in France faced its greatest challenge in 1962 as Algeria gained independence. Algeria’s secession from France was marked by a bloody conflict pitting Algerian insurgents against the French Secret Armed Organization (OAS) backed by powerful military groups opposed to the separation of this part of the national territory (considered by many French to be like Brittany or Burgundy – an integral part of the French state, and not an “occupied colonial territory.”) Terrorist attacks were committed by Algerian nationalists directly against their French occupiers.

In the 1970s, terrorism entered a new phase with attacks on French soil by Palestinian nationalist and aligned groups (Carlos the Jackel and Abu Nidal), International Revolutionary Action

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Groups (GARI), Armed Core Groups for Popular Autonomy (NAPAP) and later campaigns by Action Directe (modeled on the German Red Army Faction).

*this was the first attack led by internal operatives directly against civilians, and not against public buildings, or by outside operatives against foreign interests in France.*

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The bombing of a Paris-Toulouse train in 1982 constituted a turning point in the type of terrorism conducted on French soil: this was the first attack led by internal operatives directly against civilians, and not against public buildings, or by outside operatives against foreign interests in France. The bombing was followed by a swathe of other attacks in 1982-1983.<sup>1</sup> Extremist movements in Brittany (Breton Liberation Front - FLB, Breton Revolutionary Army - ARB), the Basque Region (ETA - IPARRETARAK) and Corsica (National Liberation Front of Corsica - FLNC - later split into branches including the FLNC Canal Historique, the FLNC Canal Habituel, the Union des Combattants and others) carried out a series of attacks against public buildings, and even assassinated the Corsican prefect (Governor), Claude Erignac, in 1998.

In 1985-86, a series of attacks linked for the most part to Palestinian and Armenian groups changed the French intelligence services' conventional approach to meeting the terrorism challenge. On February 23, 1985, a bomb exploded in a Marks & Spencer department store in Paris; on March 9, 1985, the Rivoli Beaubourg cinema was targeted; in December 1985, two bombs went off in Paris department stores, Printemps and Galeries

Lafayette. On February 3, 1986, the Claridge Shopping Gallery on the Champs Elysées was hit; while another bomb was diffused in a public lavatory near the Eiffel Tower only minutes before it was due to go off. On February 4, 1986, the Gibert Bookstore was rocked by an explosion, a precursor to a similar attack on the FNAC Bookstore in the Forum des Halles the following day. Divergent opinions initially pointed the finger at perpetrators ranging from unhinged individuals to Abu Nidal and the Armenian ASALA. The Committee of Solidarity with the Arab and Middle East Political Prisoners (CSPPA) later claimed responsibility for the attacks. The explosives used in the bombings were traced back to Lebanon, where they were linked to similar explosives used in 1983 in attacks against French interests in that country. At the time, French hostages were being held in Lebanon and tricky negotiations were underway.

On March 17, 1986, three days before Jacques Chirac took office as Prime Minister, another bomb went off in a high-speed TGV (Tres Grande Vitesse) train. On March 20, another shopping gallery on the Champs Elysées was hit. The same day, a device failed to go off in an Express Transit System (RER) commuter train. On September 4, a new wave of attacks began with a device that failed to detonate in the RER, followed by an explosion in the Paris City Hall Post Office on September 8. On September 12, a busy cafeteria on the Champs Elysées was hit. The CSPPA claimed responsibility for all attacks. Syrian and Lebanese groups, along with the Abdallah family—one of whose members, Georges Ibrahim Abdallah, was on trial in Paris—were all thought to be involved.

A successful operation by the French National Territory Surveillance Directorate

(DST) in early 1987 identified the Fouad Ali Saleh group—and its German counterpart, the Hamade group—behind all the attacks. The pro-Iranian group, in retaliation for French military support for Iraq, was thought to have provided logistical support to Lebanese Hezbollah operatives, known for their “technical skills” and their penchant for car bombings: their campaigns included attacks against Lebanese President Gemayel, against the U.S. Embassy in Beirut in April 1983, and against the Beirut barracks (headquarters of French and U.S. forces in Lebanon) in October 1983. Difficulties in identifying those responsible, attempts to apply outdated and antiquated methods of analysis to atypical cases hopelessly shoehorned into conventional molds, and the growth of front organizations and false-flag operations (a classic spy novel theme) long perplexed French government counter-terrorist agencies. Many lapses leaked from this mix of confusion in identifying the perpetrators and an approach emerged based on compilation rather than analysis. These mistakes would be remembered and learned from after 1995.

On July 11, 1995, the Imam of a Paris mosque was assassinated. On July 15, police were shot in Bron, near Lyon. On July 25, a bomb exploded in the RER. On August 17, a device rocked Place de l’Etoile in Paris. On August 26, an attack on a TGV high-speed train failed. On September 7, a bomb attack targeted a Jewish school in Villeurbanne, near Lyon. On October 6, a bomb constructed out of a gas canister exploded in the Paris metro. On October 17, another device went off in the RER. Fingerprints found on the bomb aimed at the TGV identified Khaled Kelkal, an Algerian emigrant living in the Lyon area. He was killed in a shootout with police during his

arrest. Kelkal was the first identified “hybrid” in the French territory. Born in 1971 in Mostaganem, Algeria, his family moved to Vaulx-en-Velin, a suburb of Lyon, when he was an infant. He became a juvenile delinquent while a teenager. His older brother Nouredine was sentenced to nine years in prison for armed robbery. In 1990, Kelkal was placed on probation for four months for trafficking stolen cars. A few months later, he was arrested for theft using stolen cars. He was sentenced to four years in prison. While incarcerated, he met Islamists attempting to recruit for radical organizations in Algeria. After his release, Kelkal regularly attended the Bilal Mosque in Vaulx-en-Velin headed by Imam Mohamed Minta, a fundamentalist preacher. In 1993, Kelkal went to Algeria. He was there recruited by one of the radical branches of the GIA (Islamic Armed Group), headed by Djamel Zitouni, whose aim was to “punish France.”

Almost at the same time, Lionel Dumont, a former French soldier converted to Islam after serving with peacekeepers in Somalia. He joined the French Army in 1992 but turned to Islam, renamed himself Abu Hamza, and joined the Civil War in Yugoslavia as a Bosnian Mujahedeen. He was sentenced to 20 years in prison in the 1990s for the murder of a Bosnian police officer. He escaped from Sarajevo prison and fled to Japan in 2002, where he lived quietly, using a fake passport to enter and leave the country. He was later accused of participating in the Gang de Roubaix, which unsuccessfully tried to set a car bomb during the G7 meeting in Lille in March 1996. There, he met another French convert to Islam, Christophe Caze, a medical student. In late 1996, the cell they created with other former Bosnian Mujahid began operations in order to fund themselves for their future

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attacks. On January 27, 1996, they stole a car but fired on the police with assault rifles, injuring one of the police officers. On February 8, 1996, they robbed a supermarket but had to flee when the police arrived. While firing on the police, they killed a car driver, Hammoud Feddal and stole his vehicle. On March 25, eight members of the gang assaulted a Brink's armored truck. But they couldn't access the money and fled. On March 28, the group parked a car, with four gas tanks beside a police precinct in Lille. The whole building was supposed to be destroyed by the blast. However, the bomb malfunctioned, destroying only the car. The following day, a French anti-terrorist SWAT team, surrounded their location and stormed the house. The men inside fought back with assault rifles, screaming that they'd

rather die than surrender. After a heavy gunfight, the roof of the building collapsed. Four terrorists were dead and two police officers injured. The others members of the gang, managed to escape. Several hours later, Caze was killed by Belgian police. After German police arrested him, Dumont was extradited to France, where he was convicted for his role in a number of violent crimes and sentenced to 25 years on appeal. For the second time, hybrids were acting, but their hybrid nature remained unnoticed by the French law enforcement system.

This wave of attacks would be a precursor to events in 2001, beginning with the assassination of Afghanistan's Northern Alliance Commander Ahmed Shah Massoud in his home in Takhar Province, and the subsequent



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Pan Am Flight 103, 21 December 1988. Air Accident Investigation Branch.

terrorist attacks against the World Trade Center in New York, and the Pentagon. However, the French government's response in 1996 was entirely different from its reaction in 1986. Far from being left in the dark, police and intelligence services succeeded in unraveling the terrorists' modus operandi and methods of organization, with extensive help from a network of contacts set up by specialized counter terrorism Judge, Jean-Louis Bruguière, head of the 14<sup>th</sup> section of the Paris prosecution office.

Elsewhere in the world, in the wake of the explosion that caused the crash of Pan Am flight 103 in Lockerbie, Scotland, in December 1988, the September 1989 bombing of UTA flight 772—which hit the ground in Niger's desert—was also linked to Libya. Though state sponsorship of terror continues to this day, this was the last grand terrorist act truly organized by a state. In New York, in February 1993, a group that never claimed ties to al-Qaeda succeeded in carrying out an attack on the World Trade Center; other attacks against the UN headquarters and tunnels in New York city were thwarted.

On December 24<sup>th</sup>, 1994, a commando unit of the Armed Islamic Group (GIA), an Islamist group seeking the overthrow of the Algerian government, wearing police uniforms, hijacked an Air France Airbus at Algiers Airport. The terrorists killed three passengers, with the intention to blow up the plane over the Eiffel Tower in Paris. When the aircraft reached Marseille, the GIGN, a specialized SWAT team within the French Gendarmerie, stormed the plane and killed all four hijackers. The GIA's plan appeared to foreshadow the September 11, 2001 attacks by al Qaeda against the United States. At the time, Algeria was devastated by a civil war between former members of the Islamic Salvation Front, which won the

first round of parliamentary elections in 1991, and the Algerian Army which stopped the electoral process after alarming results from the first round.

The "Declaration of War against the United States" issued by Osama Bin Laden on August 23, 1996 saw the first step towards the globalization of Salafist terrorism. The emergence of a flexible worldwide network - a terrorist "society," sharing ideology and resources but without any real central body - triggered a powerful movement towards the restructuring of terrorism. Having in the past had ties to governments, in many cases connected to the two major superpowers, these emerging groups later joined forces with Arab states (Libya and Syria) and Iran (a middle eastern but non-Arab State) for political reasons fuelled by national conflicts.

*The emergence of a flexible worldwide network - a terrorist "society," sharing ideology and resources but without any real central body - triggered a powerful movement towards the restructuring of terrorism.*

These terrorist groups however have become truly autonomous, linked by a common ideology not tied to any specific claim (over territory, language or political power sharing) but to a mythology born from a radical interpretation of the Quran. As seen in the attacks on U.S. embassies in Africa (August 1998 in Kenya and Tanzania), against a U.S. navy destroyer off the coast of Aden in 2000, in Peru, in Pakistan, in Uzbekistan, in Saudi Arabia and against targets in Europe, such as Strasbourg, such groups are now carrying out

or attempting to carry out wide-ranging attacks around the world.

The attacks of September 11, 2001, following the assassination of Commander Massoud, showed the ability of terrorist networks linked to the nebulous "al-Qaeda" to carry out simultaneous strikes on U.S. soil. Based on systems already put in play in the Philippines in 1995

*contemporary terrorist organizations, state terrorism, or terrorism related to power sharing ... gave way to an obscure entity underpinned by radical, eschatological, theological thinking focused on an ultimate goal - the kingdom of heaven on earth - and immune to any form of compromise through negotiation.*

during the foiled attack by Ramzi Yousef<sup>2</sup> and drawing on methods used in Lebanon, the simultaneous nature of the four (or five) attacks brought an increased level of risk without really involving a change in modus operandi. For the first time since the emergence of contemporary terrorist organizations, state terrorism, or terrorism related to power sharing (in terms of political or linguistic representation or recognition), gave way to an obscure entity underpinned by radical, eschatological, theological thinking focused on an ultimate goal - the kingdom of heaven on earth - and immune to any form of compromise through negotiation.

In 2002, my colleague Xavier Raufer published a note titled, "Organized crime 1995-2002: Mafias, Cartels and Gangsteroids," stating that, "The world of crime has changed. It even has nothing in common with yesterday's world. As of today, due to immeasurable consequences, two criminal scenes that

yesterday were perfectly distinct; "political" on one hand, Mafioso on the other; have amalgamated into a single one. The abolition of the bipolar world order has caused more than walls to crumble, which, in Berlin and elsewhere, rendered impassable the frontiers of the former Eastern Bloc. Other psychological obstacles have disappeared. The binary representations of yesterday's world - West against East and political against criminal - no longer make sense. The players in the "political" (guerrillas, militias, national liberation movements, terrorist groups) and "common" (organized crime, Mafia groups, cartels) arenas which yesterday were evolving in distinct worlds suddenly found themselves on the same stage sentenced to brusque mutation or disappearance."<sup>3</sup>

This brutal evolution mainly took place throughout the nineteen eighties and nineties but the large international conferences of 1994 and 1995 revealed these hybrid entities half way between terrorism and gangsterism: degenerate guerrillas for whom the media coined the phrase "gangsteroids." In March 1993, a wave of attacks, unprecedented in the history of terrorism, ravaged Bombay, India's economic capital. Thirteen booby-trapped cars, motorcycles and suitcases, operated by state of the art electronic remote control systems, exploded simultaneously at the Stock Exchange, the headquarters of Air India, in large hotels and in the business district. There were 317 deaths and more than 1,200 injured. Shortly afterwards, the investigation led to the discovery of more than four tons of C4 plastic explosive, several thousand electronic detonators, 500 grenades and hundreds of Kalashnikov assault rifles in various caches in the city. Again in April, 25 rockets and 32 very powerful homemade bombs were found in the

Bombay suburbs. Armed groups abound in the region: Sikhs fighting for a “free Khalistan”, Kashmiri Mujahideen, Sri Lankan “Tigers” fighting for Tamil Eelam. Which of them organized this terrorist maelstrom? If not them, which other known terrorist network disposes of these colossal reserves of arms and explosives? None. The perpetrators of the carnage were simple gangsters, obeying Dawood Ibrahim, a “godfather” of the Bombay underworld, himself a refugee in Dubai for several years.

In France itself, a first “gangsterrorist” group operated in Nice. The investigation into the wave of attacks that shook the city in January 1993 closed two months later with the arrest of twenty local gangsters. The bombings,

seven in total, targeted businesses and the chambers of a barrister; two rockets were also fired on a local prison and there was an arson attack on police warehouses. At the time, a “political” terrorist group, the “Corsican Revolutionary Armed Front,” claimed responsibility for these actions. But the Nice police identified the guilty party as an “ambitious and violent” local gangster. The campaign of attacks was in reality just an episode in the war of succession of a Nice gang leader assassinated in 1989. To impose its law on Nice, the Oliveiro gang eliminated its rivals: four murders between September and October 1992. This settling of accounts however was insufficient; Oliveiro then resorted to the supreme weapon to finish the job; terrorism.



The U.S. Embassy in Dar es Salaam, Tanzania, in the aftermath of the August 7, 1998, al-Qaeda suicide bombing.

Since then, the gangterrorist reality has imposed itself via several other spectacular cases. In Corsica, in January 1997, the chief prosecutor at the Bastia Court of Appeal announced that there had been 574 bomb attacks on the Island in 1996, 148 of which were “political” (following 602 in 1995, 154 of which were “political”). Now said the magistrate, “political” or otherwise, the bombings are the doing of the same individuals whose activities appear to be 25 percent terrorism and 75 percent plain gangsterism.

In 2005, Raymond Kelly, NYPD Police Commissioner, agreed to my suggestion to let an academic/police group conduct an analysis of ten terrorist cases. The ensuing paper was redacted by Micah Silber and Arvin Bratt and published in 2006 under the title, “Radicalization in the West: The Homegrown Threat.”<sup>4</sup> The document highlighted that the radicalization process is composed of four distinct phases:

- Stage 1: Pre-Radicalization
- Stage 2: Self-Identification
- Stage 3: Indoctrination
- Stage 4: Jihadization

Each of these phases is unique and has specific signatures. All individuals who begin this process do not necessarily pass through all the stages; many stop or abandon this process at different points. Although this model is sequential, individuals do not always follow a perfectly linear progression. Individuals who do pass through this entire process are quite likely to be involved in planning a terrorist act.

The phases of radicalization were precisely defined;

### **Pre-Radicalization**

Pre-Radicalization is the point of origin for individuals before they begin this progression. It is their life situation before they were exposed to and adopted jihadi-Salafi Islam as their own ideology. The majority of the individuals involved in these plots began as “unremarkable” - they had “ordinary” jobs, had lived “ordinary” lives and had little, if any criminal history.

### **Self-Identification**

Self-Identification is the phase where individuals, influenced by both internal and external factors, begin to explore Salafi Islam, gradually gravitate away from their old identity and begin to associate themselves with like-minded individuals and adopt this ideology as their own. The catalyst for this “religious seeking” is a cognitive opening, or crisis, which shakes one’s certitude in previously held beliefs and opens an individual to be receptive to new worldviews. There can be many types of triggers that can serve as the catalyst including:

- Economic (losing a job, blocked mobility)
- Social (alienation, discrimination, racism – real or perceived)
- Political (international conflicts involving Muslims)
- Personal (death in the close family)

### **Indoctrination**

Indoctrination is the phase in which an individual progressively intensifies his beliefs, wholly adopts jihadi-Salafi ideology and concludes, without question, that current conditions and circumstances require action to support and further the cause. That action is



militant jihad. This phase is facilitated and driven by a “spiritual sanctioner.” While the initial self-identification process may be an individual act, as noted above, association with like-minded people is an important factor as the process deepens. By the indoctrination phase this self-selecting group becomes increasingly important as radical views are encouraged and reinforced.

### Jihadization

Jihadization is the phase in which members of the cluster accept their individual duty to participate in jihad and self-designate as holy warriors or mujahedeen. Ultimately, the group will begin operational planning for the jihad or a terrorist attack. These “acts in furtherance” will include planning, preparation and execution. While the other phases of radicalization may take place gradually, over two to three years, this jihadization component can be a very rapid process, taking only a few months, or even weeks to run its course.

The developments discussed above demonstrate that there is another stage in the evolution – the progression to “gangsterrorism” and that the prisons and the penal system are reinforcing this process. Unlike the stages discussed above however, gangsterrorism can either proceed or follow the process of jihadization.

When the Merah case occurred in March 2012, the French Intelligence was extremely efficient in detecting it, yet totally unable to understand it. In March 2012, a few weeks before the Presidential election, a French paratrooper was shot dead in Toulouse. A second attack killed two uniformed soldiers and seriously injured another in a shopping center in Montauban. On March 19, four people, including three children, were killed at a

Jewish school. The perpetrator was identified as Mohammed Merah, a 23 year-old French-Algerian petty criminal who became an Islamist terrorist. Merah attacked French Army personnel because of French involvement in the war in Afghanistan. He also admitted during the siege of his flat that he attacked the Jewish school to avenge Palestinian children, but that it was a secondary target after he failed in killing another French soldier. French investigators believe that Merah’s radicalization began in prison and increased after two journeys to Afghanistan and Pakistan.

Dumont, Caze, Kelkal, Merah, and so many others were considered exceptions, because it is hard for a software programmer to imagine things he does not understand, and for the bureaucratic machine to adapt to unknown or unwritten developments or scenarios. Due to technological fetishism, we believed that systems are able to replace human brains. They do not. They are very useful to confirm or reject human hypotheses, but not to replace them.

*there is another stage in the evolution – the progression to “gangsterrorism” and that the prisons and the penal system are reinforcing this process.*

The Colombian FARC, the Somali Pirates, Karachi’s mobs, some of the Indian Gangs, AQIM in Mali and Niger, the Mexican Cartels are all now military forces that are not only using “revolutionary taxation” for political purposes, but indeed hybrids or mutants; and above all criminals.

The contemporary international community is besieged today by globalized crime manifest along a spectrum of complexity,

efficiency, and threat, from high-tech criminal finance to street gangs. Their territories are expanding from lawless marginal neighborhoods to anarchic megacities and “liberated territories.” Financial flows are generated through trafficking of humans and goods, including drugs, counterfeits, and even foods. And cybercrime will be the next frontier when European drug markets begin to weaken.

Reality is sometimes hard to accept and it rarely adapts to our bureaucratic preferences, or our pre-conceived mental constructs. What is happening now is not a strategic surprise. It is merely an evolution of events clearly recorded since the middle of the 1980’s but not identified. After any catastrophe or tragedy, a commission is appointed to explain, “why did this happen?” And the commission, always, discovers that those in charge knew almost everything, but exerted huge efforts to not believe the truth. Because in fact the truth does not set bureaucracy free. Truth is a disturbance in a perfectly organized system based on retroaction and rear mirror viewing. In our world, asymmetric warfare or atypical thinking is annoying, and this explains why we so often fail at countering them effectively. **PRISM**

## NOTES

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<sup>1</sup> Assassination of an Israeli diplomat, car bomb in Rue Marboeuf in front of the head office of a Syrian newspaper and in front of an Israeli bank, anti-Semitic attacks in Rue des Rosiers, bombs in two Paris restaurants, explosions in Saint Charles station in Marseille and in the Paris-Marseille high-speed TGV train.

<sup>2</sup> The main organizer of the first attack on the World Trade Center, in 1993.

<sup>3</sup> Xavier Raufer, “Organized crime 1995-2002: mafias, cartels and ‘gangsterrorists’” (2002).

<sup>4</sup> Mitchell D. Silber and Arvin Bhatt. “Radicalization in the West: The Homegrown Threat,” NYPD Intelligence Division. [http://www.nypdshield.org/public/SiteFiles/documents/NYPD\\_Report-Radicalization\\_in\\_the\\_West.pdf](http://www.nypdshield.org/public/SiteFiles/documents/NYPD_Report-Radicalization_in_the_West.pdf) (2006).

# Putting State Legitimacy at the Center of Foreign Operations and Assistance

BY BRUCE GILLEY

It is a commonly expressed idea that a key goal of intervention in and assistance to foreign nations is to establish (or re-establish) legitimate political authority. Historically, even so great a skeptic as John Stuart Mill allowed that intervention could be justified if it were “for the good of the people themselves” as measured by their willingness to support and defend the results.<sup>1</sup> In recent times, President George W. Bush justified his post-war emphasis on democracy-building in Iraq, Afghanistan, and elsewhere in the Middle East with the logic that “nations in the region will have greater stability because governments will have greater legitimacy.”<sup>2</sup> President Obama applauded French intervention in Mali for its ability “to reaffirm democracy and legitimacy and an effective government” in the country.<sup>3</sup>

The experiences of Western-led state reconstruction in Cambodia, Kosovo, Afghanistan, and Iraq among other places have been characterized by a belated recognition of the legitimacy imperative. In contemporary debates on a wide range of foreign intervention and assistance operations, legitimacy has come to occupy a central place in discussions of the domestic agenda of rebuilding that follows the external agenda that drives the initial intervention – stopping genocide, toppling a dictator, saving the starving, or establishing a transitional authority.

Today, we take the rebuilding of domestic legitimacy so much for granted in our assumptions about foreign intervention and assistance that we often hurry onto the details. But it is worth pondering the question of legitimacy as an explicit aim of any foreign operation – military, economic, or civil – rather than one that we assume will automatically follow from doing a range of good deeds. What is legitimacy and why does it matter? Where does it come from and how is it regenerated over time? How could a foreign intervention improve the chances of it and how would we know if it was working? What particular strategies, management approaches, organizational tools, and policy instruments could an intervening party adopt in order to facilitate this aim?

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Following a brief summary of general findings on legitimacy, this article looks at how the legitimacy imperative has been variously articulated and integrated into the foreign operations of the U.S. military, international organizations including the United Nations, and various humanitarian organizations. It then asks what a “legitimacy strategy” would look like in assisting fragile states, post-conflict societies, and underdeveloped nations. This is addressed first at the policy level and then at the organizational level. Finally, these lessons are applied retrospectively to the American-led reconstruction effort in Iraq, identifying the challenges as well as successes and failures of that period.

*Without rebuilding legitimacy, other aims like state capacity, development, security, and effective counter-terrorism are nearly impossible.*

### Legitimacy in Theory

Legitimacy is the right to rule. It is an acceptance by citizens that the political institutions and leaders who wield sovereign power over them have gained that power and are using it in a way that is consistent with the rules, laws, ethics, norms, and values of the political community, and enjoy their explicit consent.<sup>4</sup> Legitimacy provides the state with a moral right to impose duties and expect compliance. A legitimate state is not necessarily a just one. But it is one where the struggle for justice takes place within the confines of a widely accepted institutional framework. A state that has lost legitimacy usually depends heavily on brute

repression and faces resistance from large segments of the population.

In datasets that measure state legitimacy for a large number of countries circa 2002 and circa 2008, there is a clear relationship between low legitimacy and a range of bad consequences; regime instability, state decay, and some types of internal conflict.<sup>5</sup> By contrast, in states where legitimate political authority has been re-established – Uganda after 1986, Cambodia after 1991 – regimes gain resilience, internal conflict declines, and state capacity grows.

In short, there are good reasons to have a “state legitimacy strategy” at the heart of any foreign operation. Without rebuilding legitimacy, other aims like state capacity, development, security, and effective counter-terrorism are nearly impossible.<sup>6</sup> The “security gap” or “capacity gap” can only be solved by filling in the “legitimacy gap.”<sup>7</sup> Barakat and colleagues<sup>8</sup> argue that the failure of foreign actors to adopt a legitimacy-centered domestic agenda is the most common cause of mission failure.

What causes legitimacy? Using statistical and case study methods, three universal drivers can be identified: democracy, good governance, and sustained development.<sup>9</sup> However these universal performance factors may not operate in every context and can explain only about half of the legitimacy of a typical state. Local factors like traditional symbols, charismatic leaders, the harmony of political community, nationalism, indigenous institutions, and historical memory explain the other half, on average. In some places, they are far more important.

Why does legitimacy matter? Legitimacy is driven by performance of various sorts, but it also makes performance possible. Rising legitimacy makes it easier for states to deliver the

outputs that people want because the state can act with greater effectiveness. By contrast, legitimization crises are characterized by a death spiral in which falling legitimacy worsens performance, which in turn exacerbates the legitimacy crisis.

Legitimacy is a point-in-time stock that can be drawn upon in times of challenge. But it also needs to be constantly replenished through positive legitimization flows. The authoritarian regimes of Marcos, Mubarak, and Mugabe might have enjoyed a certain level of legitimacy in their early days, but all three failed to keep pace with changes in their societies. The protracted political crises that resulted followed a long process of de-legitimation of the regimes and states. For all political communities, sustaining the legitimacy of the state over time depends on systems that constantly incorporate social feedback into governance processes and monitor and evaluate legitimacy itself.

### The Rise of the Legitimacy Agenda

The importance of putting state legitimacy – rather than governance, democracy, or development – at the center of foreign intervention and assistance is often assumed but has only recently been articulated in the international community.

By far the most explicit focus on legitimacy is found in the doctrines and manuals of the U.S. military, based on learning in Afghanistan and Iraq. The U.S. Army's *Field Manual 3-24: Counterinsurgency* (FM 3-24) makes this plain with a section entitled, "Legitimacy Is the Main Objective," and a total of 134 references to the concept.<sup>10</sup> The U.S. Army's *Field Manual 3-07: Stability Operations* (FM 3-07)<sup>11</sup> also gives legitimacy a prominent role, referencing the concept 78 times, as does

the *Army Doctrine Reference Publication 3-07: Stability*<sup>12</sup> (ADRP 3-07) (104 references). More recently, *Army Techniques Publication 3-57.10: Civil Affairs Support to Populace and Resources Control* (ATP 3-57.10) argues that, "When U.S. forces are deployed in support of a host nation, the sovereignty of the legitimate government to govern over the people and resources within its borders is upheld and strengthened by the U.S."<sup>13</sup>

Since these documents aim to sensitize and direct ground-level soldiers, they can be excused for a lack of elegance in elaborating what precisely it means to make legitimacy "the main objective." FM 3-24, for instance, offers a barrage of "indicators" of legitimacy that conflate definitions of legitimacy ("A high level of regime acceptance by major social institutions"), with its causes ("A culturally acceptable level and rate of political, economic, and social development") and consequences ("A high level of popular participation in or support for political processes").<sup>14</sup> FM 3-07 and ADRP 3-07, although they do not highlight legitimacy as "the main objective," do better in putting legitimacy as the central concern in advising soldiers how to rebuild security forces, how to train a civil service, how to launch development, and how to create a legal system. ATP 3-57.10, meanwhile, never addresses the question of how soldiers should support population and resource control measures in a way that will uphold and strengthen a legitimate government. In all four publications, legitimacy jostles with other objectives. Thus ADRP 3-07 notes, "Stability operations aim to establish conditions that support the transition to legitimate host-nation governance, a functioning civil society, and a viable market economy."<sup>15</sup>

As with U.S. military doctrine, other international actors have increasingly recognized the legitimacy imperative and yet left it weakly operationalized. Across the United Nations system, legitimacy has risen as a guiding principle of action. The UN's 2008 capstone document on peacekeeping operations makes legitimacy central to the domestic agenda that follows the initial international agenda of establishing security. Peacekeeping (or peacebuilding), it says, should operate by "supporting the emergence of legitimate political institutions and participatory processes."<sup>16</sup> More recently, the UN system has begun to reorient its developmental assistance operations around the concept of "national ownership." This concept means that once a minimal degree of security is established, any intervention should respond to national (both state and society) needs *as explicitly articulated by those actors*. This represents a fundamental redirection from the "good governance" agenda that dominated the UN throughout the 1990s. As one UN report puts it, "A fundamental challenge faced by the organization is how to address situations when national ownership is exercised in ways that directly conflict with [good governance] norms."<sup>17</sup>

More broadly, the development assistance community, including the OECD's Development Assistance Committee (DAC), has recognized that aid effectiveness depends on responding to nationally-articulated needs. The New Deal for Engagement in Fragile States announced by a broad coalition of major countries, donors, and international organizations in 2011 makes "legitimate politics" (defined as "trust in state institutions and among people") the first of the five "peacebuilding and state-building goals."<sup>18</sup> Taking up this theme, the Busan principles of 2011 stated

that "partnerships for development can only succeed if they are led by developing countries, implementing approaches that are tailored to country-specific situations and needs," and thus foreign actors should "extend and operationalize the democratic ownership of development policies and processes."<sup>19</sup> Donors should "minimize their use of additional frameworks, refraining from requesting the introduction of performance indicators that are not consistent with countries' national development strategies." Good governance is out. Legitimacy is in.

Still, it is easy to overstate the degree of consensus on legitimacy as the key goal of foreign intervention and assistance. For instance, a widely-cited document in U.S. policy circles is the RAND Corporation's flippantly-titled *Beginners Guide to Nation-Building* published in 2007. The overarching principle espoused by this report is "leaving behind a society at peace with itself." But the report operationalizes that in terms of "transforming," "refashioning," and "reordering" the host nation.<sup>20</sup> Successful interventions "de-construct" rather than "co-opt" the societies they engage, it says, and the amount of de-construct is limited only by the resources available (i.e. the more the better). The specific rank-ordered tasks for de-constructors are given stipulatively as security, humanitarian relief, governance, economic stabilization, democratization, and development. While the report occasionally mentions the importance of local legitimacy in achieving these goals, the tone and focus is almost entirely on how foreign actors can impose changes with the *Beginners Guide* in hand. "The more sweeping an intervening authority's objectives," it notes, "the more resistance its efforts are likely to inspire. Resistance can be overcome, but only through the application of

personnel and money employed wisely over extended periods of time.”<sup>21</sup>

The concept of legitimacy as the main aim of foreign intervention and assistance is rising on the international public policy agenda, but it remains contested, competing with other goals. Even where there is a consensus on its pre-eminence, the operationalization of this policy advice remains weak. What would it mean for the international community to develop a *Field Manual on Legitimacy Operations*?

### What? How? Whether?

The first question that faces any legitimacy-based intervention is how quickly to shift from the initial external agenda (stopping killing, saving the dying, etc.) to the long-term internal agenda of re-legitimizing the political order. Richmond states, “Whether autonomy, agency and ownership can be deferred in the interest of order, or in the interest of cosmopolitan values, is a key political question in most post-conflict sites.”<sup>22</sup> Although it is not helpful to stipulate time frames, the transition to “autonomy, agency, and ownership” needs to happen quickly if any mission is to succeed, probably far more quickly than most planners are comfortable with. Once very basic security, subsistence, and administration are established, foreign actors need to refrain from the *Beginner’s Guide* enthusiasms to misuse the “golden moment” of their initial welcome by marching ahead with a laundry list of externally-stipulated agenda items.

Making the re-legitimation of political order the main objective means being realistic about what can be achieved. Foreign actors are most likely to find themselves trying to create legitimacy in the most dire situations (post-war Germany and Japan are not useful case

studies for this reason), where the legitimacy of the state is in tatters and social, economic, security, and environmental crises abound. Critics of any intervention will find ample evidence of “failure” unless realistic expectations are set. Mounting criticisms can lead to a decline in foreign efforts or a re-imposition of external agendas or both. This in turn makes the mission more likely to fail. A forecast of the “costs” of any foreign involvement should include the costs of making a difference in a difficult setting and of staying the course even when support on the home front wavers. Bosnia’s contemporary political problems in

*the transition to “autonomy, agency, and ownership” needs to happen quickly if any mission is to succeed.*

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part arose from such malign dynamics on the part of external actors beginning in 1995.<sup>23</sup>

This matters because it is the legitimacy of the domestic state and its political order, not the legitimacy of the intervention or intervening parties, that is at stake. Oddly, the two are often conflated. While it is preferable if foreign actors enjoy *some* degree of moral credibility, they will never establish any moral right to rule another society.<sup>24</sup> Public opinion invariably turns against international actors, no matter how benign, if only because their presence is always an embarrassment to the host nation. A decline in domestic support for foreign actors tells us nothing about whether the foreign intervention is working. Indeed, it may signal a shift in dependency relations away from foreign actors and towards the domestic state, an advance for the legitimacy goal.

Having turned towards a well-defined and realistic legitimacy objective, the three key

questions to be asked are; what local legitimacy requires? how to achieve it? and whether it is working?

Taking legitimacy seriously means ensuring that missions respond to citizen needs and demands *as articulated by them*. Translating this mission-level imperative into policy-level plans (not to mention ground-level organizational and instrumental actions) is challenging because of the difficulty of understanding local legitimacy sources. As Wiechnik puts it, “Planners must understand the various types of political legitimacy. They should learn how to identify the form of legitimacy the population prefers. If there is an insurgency, we must determine which form(s) of legitimacy the insurgency is using.”<sup>25</sup>

In other words, foreign actors need to check and recalibrate their enthusiasm for goals like security, democracy, the rule of law, anti-corruption, and state capacity-building (of which more below) if they take legitimacy seriously. As Roberts asks, “International peace-builders sustain liberal edifices but not populations; why, then, would we expect such populations to legitimate, support, and respect the new institutions of state if they do not serve pressing need?”<sup>26</sup> FM 3-24 is commendably astute on this point; “Commanders and staffs determine what the [host nation] population defines as effective and legitimate governance. This understanding continues to evolve as information is developed. Commanders and staffs must continually diagnose what they understand legitimacy to mean to the [host nation] population. The population’s expectations will influence all ensuing operations.”<sup>27</sup>

Most important, the crafting of sovereign executive and legislative institutions that can be the voice of the host-nation population

needs to be done early on. In East Timor, the UN authority under Sergio Vieira de Mello realized this in 2000 when it appointed a National Council with legislative power alongside a Cabinet with which the UN shared executive power.<sup>28</sup> National ownership requires a national voice with sovereign or near-sovereign power. It is this sovereign whose legitimacy then becomes the mission objective.

In interpreting host nation demands, an important distinction arises between particularistic demands expressed by different social groups (what the UN calls “local ownership”) and common good demands expressed by state actors, including elected national parties (what the UN calls “national ownership”). In general, foreign actors should respond to the latter not the former. Foreign actors are not local politicians. Their role is to re-establish a legitimate state structure within which future politicians can respond to particularistic demands appropriately. Acceding to particularistic demands such as the use of customary law in Afghanistan<sup>29</sup> or the mobilization of non-state security forces in Africa<sup>30</sup> has in both cases contributed to the *worsening* of state legitimacy because these demands have come from narrow rather than broad constituencies. In other cases, such as East Timor, customary law was demanded by national leaders and was thus legitimating when introduced by the UN mission under a dual court system.

The psychological process of legitimation occurs when state performance creates objective social conditions in which positive subjective attitudes arise and are then extended to the state.<sup>31</sup> The question to be constantly asked is what sorts of domestically-articulated demands will, when fulfilled, create the objective social conditions that encourage positive subjective attitudes (sense of well-being, safety,



pride, dignity, etc.) and thus legitimacy. Simply “doing what people say they want” will not necessarily generate legitimacy. “Statesmanship” is not the same thing as “responsiveness.”

As to how to proceed, foreign actors need to remind themselves that in a legitimacy crisis, the only way to escape the social trap is for policies to be pursued through what I have elsewhere<sup>32</sup> termed “state trusting society” initiatives. Whatever nationally-articulated goals have been agreed upon as the focal point of foreign assistance, these can be achieved in a legitimating fashion only by first devolving a certain measure of authority to broadly representative social actors and charging *them* with creating legitimate authority from the ground up. This means temporarily weakening the state and refraining from “doing something”

from the top. It is the only way to escape from the trap of low legitimacy/low performance/low stateness.<sup>33</sup>

FM 3-24, for instance, suggests that counterinsurgency can succeed when foreign soldiers do small things like clearing trash from the streets, digging wells, and building schools. But having occupiers do this does not generate legitimacy, only gratitude (maybe). Small everyday operations need to be done by and through local groups and nascent state institutions. Foreign operations should focus on recreating the state through ground-level councils that deliver everyday goods and boost their legitimacy (not the legitimacy of the foreign actors) in the process. The state needs to be rescued from the bottom up.

Finally, every foreign operation needs to constantly measure whether legitimacy is



U.S. Navy photo by Ensign Christopher Weiss

Commanding Officer Provincial Reconstruction Team Khost, U.S. Navy Cmdr. David Adams and the Governor of Afghanistan's Khost province, Arsala Jamal, cut the ribbon before laying the corner stone for Freedom High School in Musa Khel.

improving. Legitimacy measurement is complicated in the best of times. In countries that have need of foreign assistance, these challenges will be multiplied. Barakat and colleagues suggest beginning with a set of domestically-measured values (return to normalcy, restorative justice, religious expression, etc.) as the basis for measuring whether a mission is aiding with legitimation (the more it is helping the state to fulfill those values, the more it is succeeding). They also suggest that legitimacy measures should put greater weight on the views of key political actors (the military, a particular ethnic minority, key economic actors, etc.) rather than weighting each citizen's views equally. Berg, meanwhile, has suggested a strategy of measuring the legitimacy of the state compared to its major rivals to see whether prospects for peace are improving or

falling, taking Cyprus, Moldova, and Bosnia-Herzegovina as examples.<sup>34</sup>

Whatever the methods chosen, the resulting data should be used to constantly adjust and rethink ground-level policies: “[L]egitimacy must be sought strategically through a process of statecraft, which not only pursues broad legitimacy but which considers how legitimacy will be perceived (or awarded to the state) by differing interest groups, demographic segments and populations in the aftermath of conflict.”<sup>35</sup>

### Security, Democracy, and Development

With those general principles in mind, what does this mean for how foreign actors support the host-nation state in delivering security, democracy, and development? From a legitimacy-based perspective, these things are



U.S. Soldiers unload humanitarian aid for distribution to the town of Rajan Kala, Afghanistan Dec. 5, 2009.

conceptual categories that draw our attention to certain types of human needs but which are largely empty of substantive content until it is articulated by the host-nation population itself. We can safely assume that most populations will demand some measure of each. But we cannot act until we know the details.

In the case of security, for instance, once any external security agenda has been achieved, it is imperative that the security lobby within any foreign mission should “stand down” until the local security agenda can be understood and integrated into the overall mission. The rebuilding of police forces in Mexico<sup>36</sup> and of the military in Lebanon<sup>37</sup> were successful only through policies that paid attention to bottom-up legitimacy and representation. The key is not to abandon security issues, but to subsume them within the legitimacy goal, which has important implications for how security is achieved.

The same is true of democracy. The conceptual challenge of making the host-nation population the master in its own house on the basis of political equality must be approached from the bottom-up. In post-conflict settings, participation in formal electoral processes may be less legitimating than personal involvement in government decision-making.<sup>38</sup> This meshes with emerging democratic practice in long-established democracies, where the legitimating effects of democracy increasingly depend less on elections than on various forms of “collaborative governance” through which citizens exercise political power. Intervening actors should be ready for the possibility that national ownership will demand citizen empowerment rather than national elections.

The re-legitimation of the Cambodian state by the UN transitional administration, for instance, has been seen by liberal critics as

evidence of mission failure since the legitimate state they left behind was not a liberal one.<sup>39</sup> But adopting high liberal principles of intervention (Teson for instance argues that “the liberal conception of state legitimacy will guide the correct behavior by the intervener”<sup>40</sup>) will often undermine state legitimacy and thus lead to far worse outcomes than a lack of robust democratic freedoms. In Uganda, the delay and careful structuring of democracy was an important aspect of the successful re-legitimation of the state from 1986 to 2005, even if the U.S. took flak from liberal critics for accepting this reality and supporting the Museveni regime.<sup>41</sup>

In this and other cases, democracy must be supported only in ways that re-legitimate the state. Oddly, the *Beginners Guide* provides some sound advice on this point, probably because of an aversion to democracy among the “realists” of the international relations community. Rather than “de-construction,” the *Beginners Guide* advocates “co-optation;” “The perceived legitimacy of the regime is an important determinant of whether democratization will be successful. The imposition of a government by an intervening authority may result in its eventual overthrow if it is not viewed as legitimate over the long run. A government viewed as illegitimate by the population is a major obstacle to democratization no matter how fairly elected.” Still, delaying democracy may be wrong in other cases. In the Philippines and South Africa, foreign support for a rapid shift to democracy was essential to state re-legitimation.

A UN “guidance note” on democracy promotion urges that “local norms and practices must be taken into consideration...to the extent possible” while pursuing “internationally agreed norms and principles.”<sup>43</sup> A better

phrasing would be that internationally agreed norms and principles should be taken into consideration to the extent possible while promoting local norms and practices. This is not to renege on international norms and principles, but to recognize that they have emerged as such from decades of struggles by billions of global citizens and will only endure in host-nations where they emerge in similar fashion.

Supporting development is the trickiest task because the global aid community is generally not concerned with state re-legitimation. This was vividly brought into focus in 2013 in the public feud that broke out between USAID and the Special Inspector General for Afghanistan Reconstruction (SIGAR) in which both parties competed to demonstrate which was more strongly committed to by-passing the state's health ministry.<sup>44</sup> The point should be obvious: any foreign program that bypasses the state (beyond that needed to jump-start bottom-up legitimation processes) will render the state weak and illegitimate, which will prolong the crisis that required foreign intervention in the first place.

The failure of massive NGO-led development in the early years in Afghanistan led to an abrupt reversal and a new focus on community-led development. This was the sort of "state trusting society" initiative that is needed.<sup>45</sup> As Barakat et al put it, "By allowing communities to take the lead in their own development, the state won legitimacy."<sup>46</sup> The National Solidarity Program (NSP) created 22,000 community development councils (CDCs) and fostered economic recovery through the provision of community grants. "In the NSP, one can see not only productive and mutually supportive collaboration between various governmental and non-governmental institutions alongside the

international community but also the purposeful intent to deliver legitimacy to the Afghan state."<sup>47</sup>

Seeing the NSP as a compact between donors and society – "local ownership" rather than "national ownership" – ignores the important political payoffs of entwining the state in its design. The Ministry for Rural Rehabilitation and Development as well as the Ministry of Health needed to be integrated into it - not kept on the sidelines. Bypassing them because they are corrupt or ineffective is to prolong the central problem. A key aspect of the "statecraft of development" is to manage the transition from initial bottom-up community-led efforts towards a more centrally-led effort overseen (and "owned") by national institutions. Again Barakat and colleagues: "Context and implementation are, thus, the key variables in determining whether pro-legitimacy development will, in effect, promote or undermine legitimacy and stability."<sup>48</sup>

It is in this light that corruption must be understood. Pious external agendas that spurn corruption are likely to be at odds with internal agendas where corruption may play a positive role in improving equity, broadening support, and spurring development. While most evidence supports the conclusion that corruption is bad for economic growth,<sup>49</sup> the effects of corruption on state legitimacy are much more uncertain in fragile post-conflict states. In some cases – Cambodia<sup>50</sup> and Iraq<sup>51</sup> are both examples – corruption played a positive role in rebuilding political order and spurring growth. Again the *Beginners Guide* acquits itself unexpectedly well on this topic given its externalist tone; "A delicate and perilous balancing act, thus, seems to be involved in tolerating deviations from good governance in favor of

legitimate governance, though the potential benefits to stability may be immense.”<sup>52</sup>

### Managing Legitimacy Operations

The organizational structures, policy instruments, and management processes that support legitimacy-centered policies of foreign intervention and assistance are an overlooked aspect of research and practice. Since President Clinton’s 1997 directive on “managing complex contingency operations” (PDD-56), there has been a recognition of the need for an effective template for the administration of foreign interventions. The question is what the legitimacy imperative implies for managing a foreign operation.

Ensuring foreign coordination on the “legitimacy agenda” is a key starting point. This means that accountability and evaluation systems on the donor side must be reconfigured to monitor legitimation outputs and outcomes. It also creates a communications imperative for foreign actors, parallel to managing expectations, to explain the objective of reviving the legitimacy of the state. Invariably, after all, there will be media stories on the home front about “being in bed with corrupt generals” and “promoting illiberal values.” Unless these can be justified in terms of a legitimacy agenda, they will weaken foreign organizational capacity.

Creating organizational structures that can capture and interpret national demands is the next step. For instance, in assisting host-nations in rebuilding their business environments, foreign actors need to know what local investors deem important. Local business people may be more concerned with a stable electricity supply than with a bankruptcy law. They may deem rushed legislation or regulations that remove pressing roadblocks for

everyone as legitimate and yet deem other rushed legislation or regulations that adversely affect some key interests as illegitimate. A lot depends on having in place organizational structures and processes that ensure a strong voice for the local business community (including technical assistance to translate, explain, and seek comment on proposed laws from local businesses). As a USAID senior legal reform advisor notes, “commercial actors are best placed to understand the existing envi-

*The organizational structures, policy instruments, and management processes that support legitimacy-centered policies of foreign intervention and assistance are an overlooked aspect of research and practice.*

ronment and the practical implications of reform initiatives.”<sup>53</sup>

By definition, any foreign mission that is dedicated to a rapid transition to the legitimating “internal agenda” will be one where pre-mission agenda planning is tentative and limited beyond the immediate “external agenda.” Planning should be concerned with how to quickly gauge and operationalize national demands – in other words how to prioritize domestic stakeholders in the operation of the mission itself. A key implication is the importance of pluralistic organizational structures on the ground that include (if not integrate) officials in charge of military, administrative, economic, social, and environmental functions which may be variously called upon in unpredictable ways. Foreign actors must bring a chameleon-like organizational sensibility to the ground in host-nations that can automatically adjust itself to national demands.

The “provincial reconstruction teams” deployed in Afghanistan from 2003 and in Iraq from 2005 were a good example of forming structures that could achieve this aim. FM 3-24 notes that, “PRTs were conceived as a means to extend the reach and enhance the legitimacy of the central government into the provinces of Afghanistan at a time when most assistance was limited to the nation’s capital.”<sup>54</sup> However, Robert Kemp, a U.S. Foreign Service officer involved in several PRTs in Afghanistan, argues that legitimacy was never really treated as the main goal. This meant that there was no overarching “political strategy” to guide the teams alongside their well-worked out security and development strategies.<sup>55</sup> PRT members often assumed that their job was to push forward various external agendas, especially developmental ones. This could lead to

conflicts with local stakeholders; “The more conservative sectors of society want to put the brakes on change and, to some extent, development, which at times puts them in opposition to the PRTs, whose officers want to push development forward.”<sup>56</sup>

Beyond this, Kemp argues, PRTs suffered from two organizational problems. One was the heavy reliance on soldiers, who often made up 95 percent or more of PRTs. This lack of cross-sector balance and civilian expertise meant that PRT efforts in what Christie has called “non-masculinized” areas like consensus-building and capacity-building often got less attention than the “masculinized” jobs like building bridges and fighting insurgents.<sup>57</sup> While both could serve the legitimacy aim, the unbalanced organizational structure made the teams less likely to be flexible and responsive



U.S. Air Force photo by Master Sgt. Jim Vanhegvi

U.S. Air Force Lt. Col. Christopher Luedtke, Panjshir Provincial Reconstruction Team commander, meets with the Dara district public health minister Dr. Dad in the Dara district of the Panjshir province of Afghanistan, Aug. 5, 2007, to discuss the progress of the district’s medical center expansion project.

to non-masculinized national needs. The need to quickly hire and deploy civilian contractors with a range of expertise was one recommendation that the Bush administration heeded when in 2008 it created a Coordinator for Reconstruction and Stabilization within the Department of State.

Secondly, given that “legitimacy assistance” is a slow-moving operation of understanding demands, planning responses, and then implementing them, the rapid turnover of staff on PRTs meant that accumulated knowledge was lost with each tour of duty (usually 12 to 15 months). This implies the need for creating and managing systems of storing and transmitting accumulated knowledge about host-nation needs and legitimacy processes.

Among the organizational structures that will ensure a successful “statecraft” of re-legitimation, none may be more important than budget management. Taxation is a key mechanism that links states to their societies. The need for tax revenues forces the state to establish its legitimacy with society, which in turn allows the state to gather revenues and become more effective. Foreign funds (like exportable natural resources) that provide “direct budgetary support” for the host nation can easily short-circuit the domestic legitimacy imperative, creating well-known problems of aid (or resource) dependency and a consequent death spiral of legitimacy. On the other hand, if foreign funds by-pass the state and are used to deliver services through direct provision (monetary or in-kind or NGO aid), then the centrality of the state to public life is undermined, worsening prospects for legitimation.

The solution is what has been called “pooled funds” where foreign actors funnel funds through state institutions but maintain

a shared voice in how they are used. While this may seem inconsistent with “national ownership,” one must keep in mind the “statecraft” that foreign actors are engaged in. The job of foreign actors is to assist the host nation to identify and respond to national demands, not to pander to politicians and bureaucrats with extended hands. Legitimation processes involve complex calculations about how different actions by the state will create the positive social conditions in which legitimacy takes root. Shared control over budgetary allocations ensures that foreign actors can deliberate with state agents, ensuring that the quality of national representation improves. Recognizing the legitimacy imperative and the dangers of donor dependency, foreign actors can use their voice to encourage state behavior that builds a relationship of mutual trust with society. For instance, an explicit emphasis on using foreign funding to raise domestic tax revenues through strengthening the tax system or a system in which foreign funds are disbursed only on a matching basis alongside domestic resources can both serve the legitimacy aim.

In the long-term, the re-legitimation of the state implies a declining dependence on foreign actors, which must therefore be cognizant of the need, as the UNDP said of its East Timor mission, to “make itself irrelevant as soon as possible.” Building self-obsolescence into the management of legitimacy operations means leadership that is constantly looking for opportunities to thrust the domestic state into the lead. Program management in a legitimacy-centered operation should be one in which withdrawal deadlines are constantly reviewed based on evidence of progress in putting the state back at the center of national political life.

## The Case of Iraq

How do these lessons apply to the case of Iraq? The starting point of the mission in Iraq should have been a political strategy of legitimation of the post-Saddam state. The external agenda of overthrowing Saddam and his regime, eliminating uncertainties about WMD, establishing minimal security, and consolidating the protection of the Kurds was largely completed by April 2003. After that, the occupation (as with Afghanistan after the overthrow of the Taliban<sup>58</sup>) should have shifted rapidly to a legitimation operation. Rather than promise a beacon of democracy in the Middle East, the U.S. and its coalition allies charged by the United Nations with restoring the country should have promised only a UN-sanctioned occupation that would maintain the unity of the country (a goal widely shared by all non-Kurdish Iraqis) and set in motion the long process of the re-legitimation of state institutions. The failure to focus on legitimacy was a dominant theme of the Special Inspector General for Iraq Reconstruction's Hard Lessons report.<sup>59</sup>

At the center of this misstep was Paul Bremer, who headed the Coalition Provisional Authority (CPA) from May 2003 until its disbandment in June 2004. Bremer expressed a relish for the "MacArthur of Baghdad" moniker he earned, suggesting a *Beginners Guide* sensibility of the need to "deconstruct" the country. He told the first meeting of the CPA that "beyond security, we've got to solve bread-and-butter problems. That has to be our immediate priority."<sup>60</sup> While much has been written about Bremer, most of the critiques simply replace his external agenda with others. Bremer's error was not that he did x when he should have done y. Rather it was that he did

not begin with the question of whether x or y would best contribute to the re-legitimation of the Iraqi state. Critics who insist that Bremer should have re-integrated Baathists rather than disband them, or that he should have rebuilt the state-owned economy rather than privatize it, are no less mistaken in their imposition of external agendas. What was needed above all was a statecraft of occupation devoted to legitimacy.

This natural inclination to "do something" could have been redirected towards the legitimacy aim had mechanisms of representation and "national ownership" been in place. UN Resolution 1483 of May 2003 stressed the "right of the Iraqi people freely to determine their own political future" and called for an immediate handover to an "Iraqi interim administration." Bremer rejected this plan on the grounds that he "wanted our Coalition, not the United Nations, with its murky political agendas, to take the lead in pushing this process forward."<sup>61</sup> The UN representative Sergio Vieira de Mello, who died in a Dantesque position upside down between two concrete slabs in the rubble of the UN compound in August 2003, tried to make the "national ownership" point to Bremer (based on his experiences in East Timor) without success. Bremer distrusted not only the UN but also the Sh'ia representatives of the "Group of Seven" Iraqi exiles advising the CPA, and instead insisted on maintaining untrammelled power, even demanding the right to vet elections held at Baghdad University.

"Bremer's decision to assume all power for himself rather than transfer authority to an Iraqi government was probably the most fateful of his decisions," writes Peter Galbraith. "Needed reforms...might have been designed more relevantly as Iraqi initiatives, rather



than..[as] American-imposed reforms.”<sup>62</sup> When the CPA announced the formation of a 25-member Iraqi Governing Council (IGC) in July 2003 to draft plans for a handover of sovereignty, the council was assailed by the Arab media as a fig leaf for American control. Although it had a full slate of cabinet members, they were deeply beholden to the CPA.

This failure to legitimate the most foundational of state institutions was the beginning of the subsequent civil war. Without a national ownership priority, as Herring and Rangwala note, U.S. actions undermined legitimacy at every turn. The CPA sought to retain preeminence as king-maker in post-invasion coalition politics, hollowing out the national political process and shifting power to local fragmented processes (“local ownership”). Direct funding led to patron-client relationships between the

U.S. and various political elites, undermining state accountability to local populations. The initial conduct of coalition counterinsurgency operations, meanwhile, alienated populations from nascent Iraqi forces because of excessive use of coercion and emphasis on force protection.<sup>63</sup> The regulatory functions of the Iraqi state were undermined by the U.S. insistence on meeting externally-set targets for reforms. Again, it is not that the U.S. policies were necessarily wrong but that they were approached in the wrong way.

As the vicious cycle of de-legitimation gathered momentum, Bremer’s external agenda and then the agendas of the Iraqi Interim Government (2004-05) and Iraqi Transitional Government (2005-06) became more difficult to impose. As Herring and Rangwala noted in 2007, “these struggles are



Spc. Joel LeMaitre

Iraqi policemen near a polling site lift their inked fingers to show they voted, Arapha, Iraq, March 4, 2010. Iraqi security forces were given the opportunity to vote early to assist in providing security on election day.

occurring in the context of a fragmented state, that is, one in which actors dispute where overall political authority lies...successive post-invasion Iraqi governments have had little incentive to develop domestic constituencies to which they are responsive or to pursue nationwide legitimacy."<sup>64</sup>

Was there a feasible alternative to CPA dominance? At the local level, the CPA initiated the "Baghdad Process" of electing neighborhood advisory councils which in turn voted on district and city/provincial advisory councils. These in turn could have been used to elect the Iraqi Governing Council, thus completing an indirectly elected structure that would have enjoyed the legitimacy of being nationally owned. Instead, the IGC was appointed by the CPA. Once that critical gap opened between Iraq's people and their nascent state, subsequent governments were playing catch-up.

Even so, critics of U.S. missteps in Iraq fail to take account of the severity of the re-legitimation challenge that even a well-designed strategy would have faced. Using the severity and duration of autocratic rule as a measure of the legacies of the Saddam regime and adding in additional problems like resource dependency, regional conflict, and low levels of development, Moon calculated that post-Saddam Iraq had a less than 0.06 percent probability of becoming democratic.<sup>65</sup> While legitimacy may be achieved before democracy, many of the same factors support both outcomes. On Moon's calculations, democracy would take *half a century* to appear in Iraq. At the very least, then, modest legitimacy would take one or two decades. Critics of the occupation who rushed books and articles into print within a few years of the occupation had no social scientific grounds to stand on. Indeed,

Herring and Rangwala admit as much when they write that even with a rapid handover to an Iraq interim administration, "Iraqis would certainly have had a major task on their hands to rebuild their state. Furthermore, as the steps by which Iraqis could take control of state-building were so fraught with potential dispute, such a choice could have turned out disastrously."<sup>66</sup>

The appropriate question, then, is what was the marginal contribution of U.S. mistakes to the bloody process of state re-legitimation that Iraq was bound to face after Saddam? The unraveling of the Syrian state in the absence of a U.S. intervention may provide one way to answer this question using a comparable case. The legacies of severe tyranny and the exacerbations of Islamic jihadists face both countries. The massive international effort to rebuild Iraq, despite many flaws, would not have occurred in the absence of U.S.-led invasion of the country. Syria is shortly to discover the costs of an absence of foreign intervention.

That said, every foreign intervention or assistance operation can do better, and an emerging international consensus is building around the idea that doing better means doing whatever national ownership requires. Reorienting foreign operations around this notion will be a long-term task given half a century of accumulated research on "what is to be done" in foreign nations. Integrating this research into a new statecraft of legitimation is a pressing task. **PRISM**

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On patrol in North East Bamyian with Kiwi Team One, performing both mounted and dismounted patrols.

# Rules of Engagement and Abusive Citizens<sup>1</sup>

BY AMITAI ETZIONI

The time has come to draw lessons from the war in Afghanistan. One major concern is how the U.S. military ought to deal with civilians who are sporadic combatants, and civilians who act, part of the time, as support forces for combatants (by serving as intelligence agents, manufacturing ammunition and bombs, supplying provisions and transportation, and so on). Discussion of this topic has often focused on ways to deal with those civilians after they have been caught fighting us and whether they should be treated as soldiers or as criminals, a matter that has not been resolved. (My own position is that they should be treated as a third category: as terrorists, subject to distinct rules and authority.)<sup>2</sup> This article focuses on an earlier phase: when these civilians are still acting as combatants or supporting them.

This article makes the case for a major change in the basic normative precept involved and for a new Geneva Convention, both needed in order to shift the main onus of civilian casualties where it belongs: to those who engage in combat (or help those who do) without adhering to the rules of war, which require that they separate themselves from peaceful civilians. While the U.S. and its allies should do their best to minimize collateral damage, instead of accepting the basic precept that we are the main cause of civilian casualties—highlighting our mistakes, repeatedly apologizing, and seeking to make amends—we should stress that insurgents who violate the rules of war are the main source of these regrettable casualties.

We entered the war in Afghanistan with—and still labor under—an obsolete concept. This is hardly a rare phenomenon; the development of normative and legal dictates often lags behind changes in the facts on the ground. This time, the normative precept we labor under is that all civilians are innocent, peaceful people, women and children, farmers working their fields, people doing their thing at their desks and in their homes, who should be spared when armies collide. Normatively, respecting civilian life is associated with the concept of human rights, first among which is the right to life. This normative precept reflects the horror and guilt that followed WWII, in which the Nazis deliberately targeted civilian populations, especially during the London Blitz, and the U.S. and its allies deliberately fire-bombed Dresden, killing at least 25,000 civilians,

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started a firestorm in Tokyo that killed more than 80,000 civilians, and dropped atomic bombs on Hiroshima and Nagasaki.

The 1977 Protocols I and II to the Geneva Conventions, which reaffirmed several protections for civilians in armed conflicts, reflect this precept, as did the 1899 and 1907 Hague Conventions as well as modern-day customary international law. However, these agreements and legal instruments largely assume that war takes place among nations, using troops that distinguish themselves from the civilian population through, for example, “the generally accepted practice of...the wearing of the uniform” (Protocol I, Article 44.7). The requirement that military personnel be identifiable as should be military encampments and vehicles, may sound like a minor, merely technical, matter. However, it is essential if civilians are to be spared. The fact that some civilians

deliberately conceal their role as fighters was faced long before the war in Afghanistan, in numerous insurgencies and most notably in Vietnam. However, these facts have not resulted in a normative and legal reconceptualization. We therefore find ourselves engaged in Afghanistan in an asymmetric war between largely conventional troops and irregulars, trying to heed concepts meant for conventional warfare and often unwittingly reinforcing them rather than seeking to modify them. Indeed, obsolete precepts concerning civilian casualties led to a change in the rules of engagement in Afghanistan that sought to treat the problem by imposing new restrictions on our troops, thus further reinforcing the idea that we are the main source of the casualties and ignoring the fact that if the Taliban fighters separated themselves from the population, collateral



Sergeant Matthew C. Moeller, United States Army

A U.S. Army soldier battles insurgents in Barge Matal, Nuristan province, Afghanistan, in July 2009.



damage from our actions would be minimized overnight.

This article turns next to explore the reasons for the development of the more restrictive rules of engagement and follows with a suggestion of a normative and legal precept adapted to the war against irregulars.

### **Brief Overview of Rules of Engagement in Afghanistan, 2001-2011**

When General Stanley McChrystal took command in Afghanistan in June 2009, he tightened the rules of engagement covering whether and how U.S. forces could fire upon an enemy, enter Afghan homes, and use certain munitions. The new rules limit the use of indirect fires and air-to-ground munitions against residential compounds containing enemy personnel, and required that entry into Afghan homes should always be accomplished by Afghan National Security Forces.<sup>3</sup> Given that the rules significantly increase the risks to our troops, General McChrystal framed them as “courageous restraint.”<sup>4</sup> In 2010, when General David Petraeus assumed command of the U.S. forces in Afghanistan, he reaffirmed the stricter rules of engagement.

The tighter rules are part of a counterinsurgency (COIN) strategy that seeks to win the “hearts and minds” of the Afghan populace. COIN contains many other elements besides the changed rules of engagement, including building a stable and representative Afghan government and providing villagers with schools, clinics, roads, wells, and jobs. COIN seeks to cut off guerilla fighters from the local population in order to prevent them from “obtaining supplies and melting into the population.”<sup>5</sup> The term “winning hearts and minds” was coined in the 1950s by the British High Commissioner in Malaya (Gerald

Templer) during counterinsurgency efforts there against communist anti-colonial guerilla fighters.<sup>6</sup> In the post-WWII era, winning hearts and minds was “considered as the equivalent response...to the famous phrase of Mao Zedong...who believed that the communist guerilla fighter had to move within the population like ‘a fish in the water.’”<sup>7</sup>

Reducing civilian casualties is considered a key element of this strategy. Such restraint was urged even if it came at the expense of the military’s ability to operate. General McChrystal, for instance, testified before the Senate Armed Services Committee that, “Our willingness to operate in ways that minimize casualties or damage [in Afghanistan], even when doing so makes our task more difficult, is essential to our credibility. I cannot overstate my commitment to the importance of this concept.”<sup>8</sup>

The questions that arise are: how did the stricter rules affect the level of our casualties and our troops’ ability to fight? Did they reduce civilian casualties? And did they help change the hearts and minds of the population? The answers to these questions are not clear-cut and require a rigorous study by the U.S. military. However, one can gain some preliminary impressions from the limited available evidence.

As far as the effects on our troops are concerned, the stricter rules came “with costs, including a perception now frequently heard among troops that the effort to limit risks to civilians has swung too far, and endangers the lives of Afghan and Western soldiers caught in firefights with insurgents who need not observe any rules.”<sup>9</sup> An army major pointed out that before the new rules of engagement (ROE) were put into place, skirmishes typically lasted roughly a half-hour, with Taliban

fighters ambushing U.S. patrols and then fleeing as soldiers responded. Now, however, with Taliban fighters less concerned about American response to their attacks, firefights often last hours, costing American lives because “the United States’ material advantages are not robustly applied” and U.S. troops often limit themselves to rifle-on-rifle fights.<sup>10</sup> One Marine commented, “The rules of engagement are meant to placate Karzai’s government at our expense. They say it’s about winning the hearts and minds, but it’s not working. We’re not putting fear into the enemy, only our troops.”<sup>11</sup> This view was echoed by Jeff Addicott, former senior legal adviser to the U.S. Army Special Forces, who observed, “We have hamstrung our military with unrealistic ROEs. . . In many ways our military is frozen in fear of violating absurd self-imposed rules on the battlefield. How can you tell if it’s a teenager or a man, a farmer or an enemy when you’re fighting an insurgency?”<sup>12</sup> Another soldier commented that the “rules of engagement put soldiers’ lives in even greater danger” and that “[e]very real soldier will tell you the same thing.”<sup>13</sup>

A Marine infantry lieutenant confessed that he had all but stopped requesting air support during firefights because he wound up wasting too much time on the radio trying to justify his request, and pilots either never arrived, arrived too late, or were hesitant about dropping their ordnance.<sup>14</sup> A reporter noted that tighter restrictions on the use of firepower have “led to situations many soldiers describe as absurd, including decisions by patrol leaders to have fellow soldiers move briefly out into the open to draw fire once aircraft arrive, so the pilots might be cleared to participate in the fight.”<sup>15</sup> A noncommissioned officer related several examples of missions undermined by the rules of engagement. During an overnight

mission, his unit had requested that a 155mm howitzer illumination round be fired to reveal the location of the enemy. This request was rejected “on the grounds that it may cause collateral damage,” despite the extreme unlikelihood of anyone being hit by the illumination round’s canister.<sup>16</sup> On another occasion, the same unit suffered casualties from an IED and saw two suspects running from the scene and entering a home. When the unit, which is “no longer allowed to search homes without Afghan National Security Forces present,” asked Afghan police to search the house, they declined, saying that the people in the house were “good people.”<sup>17</sup> And on yet another mission, the unit came under attack by small arms fire and rocket-propelled grenades and requested artillery support, which was denied due to fear of collateral damage and concern for civilian structures.

Situations such as these have caused significant resentment among U.S. soldiers.<sup>18</sup> Soldiers often found it difficult to understand the logic behind the rules of engagement, viewing the Afghan resentment towards their use of force to be a form of ungratefulness given that U.S. personnel were risking their lives to help the Afghans.<sup>19</sup> U.S. military officials have sought to reassure the troops by explaining that they continue to have the right to self-defense and can forgo the stringent rules when they are in imminent danger of being overrun by the enemy. “As you and our Afghan partners on the ground get into tough situations, we must employ all assets to ensure your safety,” General Petraeus assured troops when he assumed command.<sup>20</sup> Similarly, General McChrystal emphasized that the tactical directive urging that troops show greater restraint “does not prevent commanders from protecting the lives of their men and women

as a matter of self-defense where it is determined no other options... are available to counter the threat."<sup>21</sup> General McChrystal has also contended that the shift towards greater restraint was a grassroots movement that was being adopted by low-level officers long before he issued directives urging them to limit their activities.<sup>22</sup> However, many troops remain worried that the military will "Monday-morning quarterback" their instantaneous combat decisions.<sup>23</sup> Indeed, following an assessment of how U.S. troops were taking to the new rules of engagement, Sarah Sewall, the then-Director of Harvard's Carr Center for Human Rights, argued that the regulations left troops terrified of crossing the line and demoralized when similarly-worried commanders refused to approve requested air strikes.<sup>24</sup>

Concern over soldiers' ability to defend themselves reached such a pitch that the House passed a provision in the 2012 defense authorization bill that directed the Secretary of Defense to "ensure that the rules of engagement applicable to members of the armed forces assigned to duty in any hostile fire area...fully protect the members' right to bear arms; and authorize the members to fully defend themselves from hostile actions."<sup>25</sup> Representative John Mica (R-Fl), who proposed the provision, noted that when he visited Afghanistan, the troops asked him, "Please change the rules of engagement and allow us to adequately defend ourselves."<sup>26</sup> Ultimately, the version of the defense authorization bill that passed the Senate did not contain Mica's provision due to the same concern that had informed opposition to the provision in the



Staff Sgt. Brian Ferguson, U.S. Air Force

U.S. Army Sgt. 1<sup>st</sup> Class Manuel Delarosa finds a pair of shoes for a young girl while helping Afghan National Security Forces distribute winter supplies in Safidar village, Afghanistan, on Feb. 1, 2011.

House: reluctance to substitute congressional judgment for that of military leaders.<sup>27</sup> Representative Robert Andrews (D-NJ), for example, expressed concern that the amendment would “supplant the judgment of th[e] commander in the field with the judgment we are making here thousands of miles away.”<sup>28</sup> Representative Adam Smith (D-WA) similarly objected; “I want our trained commanders in the field to make the decision on what the rules of engagement should be in any given environment, not the United States Congress.”<sup>29</sup> Nobody denied that the stricter rules raised important concerns, but many felt that Congress was not the place to solve them.<sup>30</sup>

Difficulties arise in assessing the effects of the stricter rules on U.S. military casualties. They have increased since General McChrystal introduced the rules in mid-2009, but it is difficult to determine to what degree higher casualty levels are due to the changed rules. On the one hand, U.S. troop deaths surged to record numbers in July and August 2009, soon after the rules were implemented. However, this surge can be attributed in large part to other factors, such as the Taliban’s usage of larger roadside bombs beginning in that year and a major military offensive in the south.<sup>31</sup> And while the number of troop deaths recorded in 2009 (311) was roughly double those recorded in 2008 (155),<sup>32</sup> the number of U.S. troops deployed to Afghanistan also roughly doubled during 2009.<sup>33</sup>

While the stricter rules of engagement are reported to have resulted in fewer civilian casualties in Afghanistan being caused by U.S. or coalition forces (especially by airstrikes), there has not been an *overall* decrease in civilian casualties in Afghanistan since 2009—in fact, they have increased. According to the

Congressional Research Service, there were 2,118 civilian deaths in 2008; 2,412 in 2009; 2,777 in 2010; and 3,021 in 2011.<sup>34</sup> This is due to a significant extent to increased casualties caused by the Taliban and other insurgents.<sup>35</sup> However, it is difficult for the Afghan population, subject to conflicting reports by American and Taliban sources, to sort out what and who caused these casualties.

Most relevant to assessment of COIN is the fact that the Afghan government and public continued to grow increasingly hostile to the U.S. in the period after which the stricter rules were introduced.<sup>36</sup> In recent months, tolerance for the U.S. military presence has plummeted particularly dramatically.<sup>37</sup> The reasons are many, including the burning of Korans, videos showing American soldiers urinating on corpses of Taliban killed in action, and a rampage by a single American soldier. Beyond these, there is a more basic sense of alienation that is due to the very presence of foreign troops in one’s country; the obvious affluence of the foreigners compared to the Afghan populace’s high level of poverty and deprivation; profound differences in belief, especially about the role of women; and a deep resentment of American efforts to change most aspects of Afghan life, including by promoting Western forms of politics, seeking to foster national commitments in a country in which the first loyalty is to one’s ethnic group, and promoting secular education and free media (that broadcast material many Afghans consider deeply offensive). The surge in production of opiates, corruption, and lawlessness, and the return of pedophilia as well as continued support for warlords—all since the American occupation—also breed resentment among some Afghans (while others benefit from them).

There are very few conflicts in which efforts to win hearts and minds have been effective. The British counterinsurgency in Malaya during the 1950s is often cited as a model for current COIN efforts, but in that case the guerillas were almost exclusively members of an ethnic minority (Malayans of Chinese descent) and were “directed by a Marxist-Leninist movement that was isolated from the wider population and without any support bases outside Malaya.”<sup>38</sup> The British thus could count on the support of the majority of the population, while the insurgents did not receive the support of the “great Maoist backup,” as historian Jacques Droz put it.<sup>39</sup> There was not a neighboring country like Pakistan that provided a safety zone for insurgent leaders and a place for insurgents to train, rest, reorganize, and gain supplies. Moreover, historian Karl Hack has contended that it was not actually General Templer’s emphasis on hearts and minds from 1952 onward that was primarily responsible for the Malayan insurgency’s defeat, but rather the population control and guerilla fighter isolation policies implemented under General Briggs between 1950 and 1952. Thus, it was the “use of sheer force together with th[e] strategy of deportation [of millions of Malayans] that broke the back of the insurgency, not a joyful and pleasant ‘winning of hearts and minds’ campaign.”<sup>40</sup>

In short, although civilian casualties surely feed the Afghan people’s mounting resentment against the foreign forces, there is considerable reason to hold that even if these were greatly reduced, we would be unable to win the hearts and minds of most of the population. Moreover, if the rules of war were adapted to asymmetric warfare, and the relevant normative and legal precepts were

modified accordingly, these changes might well change whom the population considers to be the main culprit for civilian casualties.

### Abusive Civilians

The distinct normative precept that is needed can be introduced via a mental experiment. Assume two armies fighting each other, a red and a blue army. The red army has some infantry in the front lines, trucks and drivers that deliver ammunition and food, a HQ in the back, and some storage areas. All the fighters wear uniforms and all the cars, buildings, etc., are marked clearly indicating that they are part of the red army. Under these circumstances, the blue army would be free to bomb, strafe or otherwise kill all these soldiers and destroy their assets, well in line with what people would consider legitimate conduct and well within the rules of war, as expressed in the Geneva Conventions and the Rome Statute (which established the International Criminal Court).

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Now assume that the red army fighters removed their uniforms and wore civilian clothes, repainted their trucks and barracks, etc., to look like civilian cars and residences—but otherwise kept fighting just as they did before. Their acts would make it much more difficult for the blue army to spare the peaceful civilians and their assets—while the red

“army” would gain great strategic and tactical benefits from this move. Indeed, further analysis may well show that such a change (especially when the response is stricter engagement rules for our military) is one major reason the war in Afghanistan lasted so long, caused numerous casualties, and is far from over. Various insurgency groups, in effect, go further. They use civilians as human shields, store their ammunition in mosques, mount anti-aircraft guns on the roofs of schools, use ambulances to transport suicide bombers, and house missiles in private homes. Morally, one can readily see that the red army bears primary responsibility for the collateral damage caused by its actions, and it is difficult to see why one would hold that the red army fighters are as a result entitled to extra rights and protections. This is true even if the red army is only a part-time army. (I know, from personal experience. The first year I served in the Palmach, we would work two weeks each month in a kibbutz that provided us with room and board, including for the other two weeks each month, in which we would train and fight.)<sup>41</sup>

Abusive civilians are citizens who misuse their civilian status by violating the rules of war while seeking to benefit from them, demanding that those whom they challenge abide by these rules. I call them “abusive civilians” as opposed to “abusive combatants” so as to emphasize the particular way in which they are violating the rules and moral norms of war. There are many varieties of abuse that a combatant might engage in, for example, waving a flag of surrender and then launching a surprise attack on those who, in good faith, come to negotiate. By using the term “civilian,” my intent is not to suggest that these fighters are somehow akin to civilians but, rather, to specify the particular type of abuse they

commit, namely masquerading as civilians as opposed to clearly identifying themselves as a party to the conflict. An additional distinction must be drawn between two kinds of abusive civilians—those who engage to fight but pose as civilians and those who appear as civilians and carry out a more logistical role by providing aid and assistance to the fighters. As it stands presently, Additional Protocol I of 1977 qualifies fighters out-of-uniform as lawful if they openly display their arms en route to an attack. However in countries in which most adult males carry guns, this is not a legitimate marker. It would be in areas where there is a ban on carrying arms by civilians.

Advancing this normative precept (and its legal implications) requires several major efforts.

(a) On the international level, public intellectuals and legal scholars have to formulate the kind of brief of which this article is but a very limited and preliminary start. Advancing such a brief requires raising awareness of the issue and seeking a new shared understanding of what is legitimate civilian conduct.

(b) We need a change in language. Currently, practically all reports—whether official or in the media—about collateral damage refer to “civilians” and “fighters” (or militants), which revalidates the obsolete notion that civilians are, on the face of it, innocents and constitute illegitimate targets. Making a distinction between two kinds of civilians—between peaceful and abusive civilians—moves the language in the right direction. Furthermore, it should be noted that current language implies that one can readily tell peaceful and abusive civilians apart, while the opposite is true. In large parts of the areas involved, most men carry arms and wear the same clothing, headgear, and beards, whether

they are herding sheep, farming, or fighting. Hence, flat statements such as X civilians and Y militants were killed are often based on one taking the word of the locals or uncritically accepting reports by foreign media, which are often wildly off the mark.<sup>42</sup> Above all, such statements presume that it was possible to distinguish peaceful and abusive civilians before the engagement, which is often not the case. Each post hoc report should made it clear how similar the “civilians” and “fighters” were found to be and that, even after the fact, under non-combat conditions and with no time pressures, it is difficult to tell who is who because of the illegitimate way in which the insurgents fight.

What would a new Geneva Convention, dealing with asymmetric war, look like? (I write “look like” because the following lines serve merely as a very preliminary outline for a framework that must be fleshed out. They

aim to suggest an approach rather than provide a developed draft.) The suggested convention assumes that all means for a peaceful resolution of a conflict have been exhausted and that a military engagement is unavoidable. This prerequisite is essential precisely because one must assume that war cannot be kept “surgical” and that peaceful civilians will be hurt, which is one reason armed conflicts should be avoided whenever possible.

However, if fight we must, it should be understood that (a) civilians who bear arms of any kind must avoid areas declared “controlled arms zones” (which can include whole regions and even a country), or they will be considered fighters. It might be objected that this is too heavy-handed, as it would open up any person within the zone who displayed a weapon to attack. However, as long as people are made clearly aware that carrying weapons is prohibited and are given adequate opportunity to leave their arms behind—like Americans in an airport - it is not clear why such an approach should be ruled out. Our side need not wait until our troops are first shot at to warn and then neutralize such fighters. This does not mean that these are free-fire zones, in which we are free to shoot to kill at will but merely that rules which we help establish will apply. Others might object that even civilians need weapons to protect themselves from fighters, but this would not be true in a totally demilitarized zone where civilian and fighter alike would be forced to disarm or face attack. In that sense these zones are not different from fenced-in areas, in which for security reasons—and for the protection of civilians—we allow in only those who do not carry arms or meet other requirements, similar to current procedures for airplanes, many public buildings, and of course military bases even in the United



Taliban police patrolling the streets of Herat in a pickup truck, 15 July 2001.

States itself. Only in this case, the areas might well be larger.

Finally, it might be argued that there is no way to provide those residing within such a zone with fair warning that they must disarm or leave. However, the military has considerable experience with such communications efforts, often dropping leaflets or setting up phone banks in advance of bombings or to notify fighters of opportunities to surrender and reintegrate into society.

Such declarations of controlled arms zones can draw on distinctions already drawn between “theaters of war” and other zones. For instance, the ACLU argues that the U.S.’s targeted killings in Pakistan and Yemen are illegal because those countries fall outside the congressionally approved combat areas of Iraq and Afghanistan. According to Ben Wizner, Litigation Director for the ACLU’s National Security Project, “Outside the theater of war, the use of lethal force is lawful only as a last resort to counter an imminent threat of deadly attack.”<sup>43</sup> It follows that in declared controlled arms zones, different rules of engagements, can be applied. These zones need not be designated by Congress any more than when we announce that parts of the desert in Nevada—or an island in Puerto Rico—are closed to the public because they are being used for target practice, only in the case at hand we allow civilian traffic as long as the civilians do not carry arms (bombs included). Also, because when terrorists attack there typically is no warning time, as there often is when conventional attacks are in the making, all terrorists should be treated as though they pose an imminent danger.<sup>44</sup> And hence controlled arms zones can be declared any place and any time there is compelling evidence that terrorists or insurgents frequent them. However when these

are parts of independent nations (e.g. Pakistan) as distinct from parts of a nation for whose security we are responsible (e.g. Afghanistan, at least until 2014), our first step is to seek for the responsible government to take the needed action and for us to act only with its consent or after it has repeatedly failed to discharge its duties.

At sea, when dealing with pirates who terrorize the waterways, a 250-yard buffer—or some other such zone—could be declared around ships on the high seas. Those who approach ships might be asked to stop to be identified and, if need be, searched. If they do not stop, those who protect the ships will be free to fire across their bow, and if those who are closing in on the ship still do not stop, they will be neutralized. The same holds for cars approaching our checkpoints or buildings in areas designated as combat zones.

(b) Civilians who used arms but returned to civilian pursuits are still to be treated as fighters. As long as we must fight, if shepherds at the side of the road plant IEDs and return to herding their sheep, we cannot spare them any more than soldiers of an enemy army who are taking a break, and if farmers pull out their AK-47s to shoot at us and then return to their hoes, we cannot treat them as if they were part of a Rockwell painting.

(c) Civilians who voluntarily house or serve as sources of intelligence or transport for fighters are fair targets, just as they would be if they wore uniforms. (Whether a population voluntarily services insurgents may not always be easy to determine, but one should note that with rare exceptions—such as when women and children are used as human shields—people have a choice.) There are some, not many, who contend that individuals providing logistical support, even if they were in uniform,



would not be subject to attack under the present laws of war. However, it is hard to think of a major conflict where those who build the bombs or deliver them to the front line and so on would be considered off-limits. The International Committee for the Red Cross, for example, has been particularly constrained on this point, arguing that there are very narrow conditions under which a person qualifies as “directly participating in hostilities” and is, thus, subject to attack.<sup>45</sup> However, this interpretation has seemingly gained little traction.<sup>46</sup>

There are too many possible permutations for orders to cover all situations, and therefore those in the field should be given the authority to determine what is to be done, with the full knowledge that they will not be second-guessed by those in the rear.

(d) Facilities used for housing insurgents, supplying them, etc., are also fair targets, whether or not the insurgents are in them at the time.

(e) When fighters are caught who do not carry markers that allow one to separate them from peaceful civilians, they may be detained as long as they continue to pose danger to us or to others. However, instead of undetermined holding, their status should be reviewed once every year or two by a panel of three military offices.<sup>47</sup>

(f) Special efforts should be made to minimize collateral damage even though its main cause is the insurgency (see below).

(g) Civilian populations should not be intentionally targeted, for instance in order to break the fighting spirit of the other side.<sup>48</sup>

These very preliminary guidelines aim to nurture a dialogue on these points, and must be significantly extended and elaborated upon before they might serve as a new Geneva-like convention. I write “Geneva-like” because the

Geneva Conventions are agreements among nations. However, it is the hallmark of abusive civilians that they often do not represent a government and are not controlled by it. Hence, one cannot, most of the time, have an agreement between the government of the nations involved and the insurgent groups about the rules of the conflict. However, the nations of the world can agree with each other on the new normative precepts and the legal points sketched above, and issue a declaration to this effect. These could then serve in cases of international conflicts as normative and legal guidelines.

*The conflict in Afghanistan is now internal in nature (the Afghan government is engaged in armed conflict against insurgents with the support of the international community)*

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These suggested guidelines, and the normative concepts that underlie them, draw on existing international humanitarian law, in particular the 1977 Additional Protocol I of the Geneva Conventions as well as the Rome Statute, although specific rules of engagement promulgated by a given military can quite readily be much stricter than these laws imply or otherwise vary from them.

Protocol I, which contains the most substantive guidelines for the protection of civilians, applies to international conflicts. The conflict in Afghanistan is now internal in nature (the Afghan government is engaged in armed conflict against insurgents with the support of the international community), and in any case the U.S. has not ratified Protocol I. However, many of Protocol I’s articles are recognized as rules of customary international humanitarian law (IHL) applicable to both

international and non-international armed conflicts and valid for all states, whether or not they have ratified the protocol.<sup>49</sup>

Under the provisions of Protocol I, it is a war crime to engage in “total war,” one that fails to distinguish between civilian and military targets. Indiscriminate attacks that are not “directed at a specific military objective” (Article 51.4 of Protocol I, Rule 12 of customary IHL) are prohibited. Under Article 51.5, types of attacks considered to be indiscriminate include: (a) “attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects” and (b) “an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which

would be excessive in relation to the concrete and direct military advantage anticipated.”<sup>50</sup>

Further, militaries must, where possible, “avoid locating military objectives within or near densely populated areas” (Article 58 of Protocol I, Rule 23 of customary IHL). This should be fully required from civilian combatants as well. “Indiscriminate” needs to be redefined so it is understood to mean that when the rules of distinction are violated, discriminate counter-acts are rendered largely impossible by those who did not separate themselves and their assets. That is, indiscriminate can be caused by both sides. The requirement that civilian casualties not be “clearly excessive” can continue to be honored. (While Protocol I of the Geneva Convention and Rule 14 of customary IHL use the term “excessive,” Article 8.2.b.iv of the Rome Statute restricts the jurisdiction of the International Criminal Court to cases in which civilian casualties and damage to civilian objects are “clearly excessive.”)



LIFE: Joe Penner

Former Taliban fighters line up to hand over their rifles to the Government of the Islamic Republic of Afghanistan during a reintegration ceremony at the provincial governor's compound.

Article 57.2 (reflected in Rule 15 of customary IHL) requires that military forces planning an attack “do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects...but are military objectives” and “take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss or civilian life, injury to civilians and damage to civilian objects.” Once an attack has been planned, militaries must make efforts to remove civilians and civilian objects under their control from the vicinity of military operations (Article 58 of Protocol I, Rule 24 of customary IHL) and, where possible, “give effective advance warning” of attacks that may impact the civilian population (Article 57.2 of Protocol I, Rule 20 of customary IHL).

Articles 43 and 44 of Protocol I grant combatant and prisoner of war status to guerrilla forces under the command of a central authority, provided that they do not hide their allegiance, but distinguish themselves as combatants when possible and at the very least carry their arms openly when engaging with the enemy or preparing to attack; Article 37 expressly prohibits combatants from feigning to be civilians.

The main articles that must be modified are Article 50.3 of Protocol I, which holds that the presence of combatants within the civilian population “does not deprive the population of its civilian character,” and Article 50.1 of Protocol I, which stipulates that in cases of doubt whether a person is a civilian, the military must consider that person a civilian. Also problematic is the fact that civilians retain immunity from attack until they take a “direct part” in hostilities (Article 51.3 of Protocol I, Rule 6 of customary IHL), at which point they

become lawful targets of attack—but only for the duration of their participation. Thus, the Geneva Conventions encourage a “revolving door” by which civilians regain the benefit of immunity from attack as soon as they put down their arms and no longer pose an imminent threat. That said, this interpretation of “direct part” in hostilities is put forward primarily by the Red Cross and has not been accepted by most governments of the world.

In contrast, the new declaration should call more attention to Article 51.7 of Protocol I and Article 8.2.b.xxiii of the Rome Statute, which outlaw combatants from using the presence of civilians to render areas “immune from military operations.” Article 51.7 (reflected in Rule 97 of customary IHL) particularly emphasizes that combatants may not use civilians as human shields in order to protect themselves or military targets from attacks.

Much work remains here to be done by public intellectuals and legal scholars. The main approach, though, seems clear: people who abuse their civilian status must not profit from many of the rights that go with it.

### Oversight and Moral Equivalency

The fact that abusive civilians, along with insurgents, are the main culprits for civilian casualties does not mean that the military should not seek to limit these casualties while emphasizing that there is only so much that it can do so long as the other side is not doing its share. The following lines merely seek to illustrate what is being done and what can be done to curb collateral damage.

The criteria are reported to include the reliability of the intelligence that identified the target and the number and status of presumed civilians in the area. The less reliable the information and the greater the potential collateral

damage, the more people review the information and the higher the rank of the those in the military who approve the strike—all the way up to the Commander-in-Chief. Strikes also are examined after they occur in cases when we have erred. Thus, in effect, abusive civilians benefit from an extensive review before targeted killing takes place.

One should note that just as the matrix (the decision-making apparatus used by the military) can be too lax, it can also be too restrictive. In several cases, the delay in making the decision or the strictness of the criteria employed allowed abusive civilians of considerable rank and power to escape.

What about freedom fighters? And private contractors who carry out military missions? If they act like abusive citizens, are they too to be blamed as the major source of the resulting casualties—and treated accordingly? Much more license must be granted to those who rise against a tyrannical regime than to those who could challenge a government in the ballot box but chose to raise their arms against it. Some might argue that such a moralization of the rules of war would allow any party to claim the moral high ground and use it as an excuse for disregarding the rules of war. However, simply because some group claims to have justice on its side does not make this case and need not influence how their actions are assessed in terms of international law and core values. There is a profound difference between those who used violence when they tried to overthrow Hitler and those who sought to kill the democratically-elected Yitzhak Rabin—between those who took up arms against Stalin, and the assassin who killed JFK.

However, freedom fighters too must follow the rules of war by separating themselves from the civilian population, carrying

identifying markers, and taking responsibility for the casualties that follow when they do not follow these rules. **PRISM**

## NOTES

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<sup>1</sup> I am indebted to D. Alexandra Appel for extensive research assistance on this article and to Peter Raven-Hansen for comments on a previous draft.

<sup>2</sup> Amitai Etzioni, "Terrorists: Neither Soldiers nor Criminals," *Military Review* 89, no. 4 (2009), 108-118.

<sup>3</sup> Headquarters, International Security Assistance Force, Tactical Directive, 6 July 2009.

<sup>4</sup> See, e.g., discussion in Robert Fox, "Where McChrystal led, Britain followed," *The Guardian*, June 24, 2010, <http://www.guardian.co.uk/commentisfree/cifamerica/2010/jun/23/general-mcchrystal-britain-afghan-policy>.

<sup>5</sup> "Winning Hearts and Minds': Historical Origins of the Concept and Its Current Implementation in Afghanistan," *Cahier de la recherche doctrinale* (November, 2011), 18, [http://www.cdef.terre.defense.gouv.fr/publications/cahiers\\_drex/cahier\\_recherche/gagner\\_coeurs\\_us.pdf](http://www.cdef.terre.defense.gouv.fr/publications/cahiers_drex/cahier_recherche/gagner_coeurs_us.pdf).

<sup>6</sup> *Ibid.* at 26.

<sup>7</sup> *Ibid.* at 18.

<sup>8</sup> Stanley McChrystal, *My Share of the Task: A Memoir* (Portfolio/Penguin, 2013), 289-290.

<sup>9</sup> C.J. Chivers, "General Faces Unease Among His Own Troops, Too," *The New York Times*, June 22, 2010, <http://www.nytimes.com/2010/06/23/world/asia/23troops.html?pagewanted=all>.

<sup>10</sup> *Ibid.*

<sup>11</sup> Sara Carter, "Marine's career threatened by controversial rules of engagement," *The Washington Examiner*, January 23, 2012, <http://washingtonexaminer.com/news/world/2012/01/marines-career-threatened-controversial-rules-engagement/167369>.

<sup>12</sup> *Ibid.*

<sup>13</sup> Michael Hastings, "The Runaway General," *Rolling Stone*, June 22, 2010, <http://www.rollingstone.com/politics/news/the-runaway-general-20100622?page=4>.

<sup>14</sup> C.J. Chivers, “General Faces Unease.”

<sup>15</sup> *Ibid.*

<sup>16</sup> George Will, “No bluffing in Afghanistan,” *Orlando Sentinel*, June 21, 2010, [http://articles.orlandosentinel.com/2010-06-21/news/os-ed-george-will-062010-20100621-7\\_1\\_unit-collateral-damage-afghan-national-security-forces](http://articles.orlandosentinel.com/2010-06-21/news/os-ed-george-will-062010-20100621-7_1_unit-collateral-damage-afghan-national-security-forces).

<sup>17</sup> *Ibid.*

<sup>18</sup> C. J. Chivers, “General Faces Unease.”

<sup>19</sup> Stanley McChrystal, *My Share of the Task: A Memoir* (Portfolio/Penguin, 2013), 369.

<sup>20</sup> Laura King, “Afghans see change in U.S. command as a threat to safety,” *Los Angeles Times*, July 5, 2010, <http://articles.latimes.com/2010/jul/05/world/la-fg-0705-afghan-war-rules-20100705>.

<sup>21</sup> Stanley McChrystal, *My Share of the Task: A Memoir* (Portfolio/Penguin, 2013), 312.

<sup>22</sup> *Ibid.*

<sup>23</sup> Sara Carter, “Marine’s career threatened.”

<sup>24</sup> Fred Kaplan, *The Insurgents: David Petraeus and the Plot to Change the American Way of War* (New York: Simon & Schuster, 2013), 328.

<sup>25</sup> Nathan Hodge, “The Second Amendment for Troops?” *The Wall Street Journal*, May 26, 2011, <http://blogs.wsj.com/washwire/2011/05/26/the-second-amendment-for-troops/>. See also text of H.R. 1540, Section 1087, 112<sup>th</sup> Congress, 1<sup>st</sup> session, available at <http://www.gpo.gov/fdsys/pkg/BILLS-112hr1540eh/pdf/BILLS-112hr1540eh.pdf>.

<sup>26</sup> Rep. John L. Mica e-newsletter, May 26, 2011, <http://mica.house.gov/news/email/show.aspx?ID=JJ444735PXMDNPUFF4NZMEYMM>.

<sup>27</sup> The conference report for the defense authorization bill noted that “the conferees... acknowledge that military commanders may restrict service members’ ability to carry or employ weapons to achieve mission success. The conferees encourage the Secretary of Defense...to ensure that members of the armed forces serving in hostile fire areas have the means to exercise self defense to the maximum extent practicable and consistent with their mission,” implying a reluctance to substitute congressional judgment for that of military commanders and the Secretary of Defense. See National Defense Authorization Act for Fiscal Year 2012: Conference Report, “Joint Explanatory Statement of the Committee of Conference,” 112<sup>th</sup> Congress, 1<sup>st</sup> Session, [http://www.rules.house.gov/Media/file/PDF\\_112\\_1/legislativetext/HR1540conf.pdf](http://www.rules.house.gov/Media/file/PDF_112_1/legislativetext/HR1540conf.pdf), 192.

<sup>28</sup> Robert Andrews, transcript of House proceedings, May 25, 2011, <http://www.c-spanvideo.org/appearance/600019925>.

<sup>29</sup> Adam Smith, transcript of House proceedings, May 25, 2011, <http://www.c-spanvideo.org/appearance/600019929>.

<sup>30</sup> For more discussion, see Arthur Berney, Stephen Dycus, and Peter Raven-Hansen, *National Security Law*, 5<sup>th</sup> edition (New York: Wolters Kluwer Law & Business, 2011): 77-82.

<sup>31</sup> Laura King, “Number of U.S. soldiers killed in Afghanistan doubles in 2009,” *Los Angeles Times*, January 1, 2010, <http://articles.latimes.com/2010/jan/01/world/la-fg-afghan-troop-deaths1-2010jan01>. See also King, “Afghan war troop deaths surged in July,” *Los Angeles Times*, August 1, 2009, <http://articles.latimes.com/2009/aug/01/world/fg-afghanistan1>.

<sup>32</sup> Susan Chesser, *Afghanistan Casualties: Military Forces and Civilians*, CRS Report R41084 (Washington, DC: Congressional Research Service, December 6, 2012), available at <http://www.fas.org/spp/crs/natsec/R41084.pdf>, 1.

<sup>33</sup> See Figure 1.1 in Ian Livingston and Michael O’Hanlon, “Afghanistan Index,” (Washington, DC: Brookings Institution, May 16, 2012) available at <http://www.brookings.edu/~media/Files/Programs/FP/afghanistan%20index/index.pdf>.

<sup>34</sup> See Table 4 in Susan Chesser, “Afghanistan Casualties,” 3.

<sup>35</sup> *Ibid.*

<sup>36</sup> See “Afghanistan: Where Things Stand—Afghan Views Worsen as Setbacks Counter U.S. Progress in Helmand,” poll by ABC News/BBC/ARD/ *The Washington Post*, December 6, 2010, <http://www.langerresearch.com/uploads/1116a1Afghanistan.pdf>.

<sup>37</sup> See, e.g., “Among Afghans, tolerance of U.S. presence takes hit,” *The Seattle Times*, March 13, 2012, [http://seattletimes.nwsource.com/html/nation-world/2017741622\\_afghan14.html](http://seattletimes.nwsource.com/html/nation-world/2017741622_afghan14.html).

<sup>38</sup> “Winning Hearts and Minds,” *Cahier de la recherche doctrinale*, 30.

<sup>39</sup> “Winning Hearts and Minds,” Cited in *Cahier de la recherche doctrinale*, 30. See also Gérard Chaliand, *Le Nouvel Art de la Guerre* (L’Archipel, 2008).

<sup>40</sup> “Winning Hearts and Minds,” *Cahier de la recherche doctrinale*, 31. See also Karl Hack, “The Malayan Emergency as Counter-Insurgency Paradigm,” *Journal of Strategic Studies* 32.3 (June 2009), 383-414.

<sup>41</sup> Amitai Etzioni, *My Brother’s Keeper: A Memoir and Message* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2003).

<sup>42</sup> Lucinda Fleeson, "The Civilian Casualty Conundrum," *American Journalism Review*, April 2002, available at <http://www.ajr.org/article.asp?id=2491>.

<sup>43</sup> "ACLU Statement on Killing of Anwar Al-Aulaqi," ACLU, September 30, 2010, <http://www.aclu.org/national-security/aclu-statement-killing-anwar-al-aulaqi>.

<sup>44</sup> I am indebted for this observation to Peter Raven-Hansen. See also Chapters 8 and 9 in William Banks, Arthur Berney, Stephen Dycus, and Peter Raven-Hansen, *National Security Law*, 5<sup>th</sup> edition (New York: Wolters Kluwer Law & Business, 2011).

<sup>45</sup> Nils Melzer, *Interpretative Guidance on the Notion of Direct Participation in Hostilities Under Humanitarian International Law* (Geneva: International Committee of the Red Cross, 2009)

<sup>46</sup> This point was brought to my attention by TKTK in his comments on an earlier draft.

<sup>47</sup> For more discussion of issues facing abusive civilians after capture, see Amitai Etzioni, "Terrorists: Neither Soldiers nor Criminals," *Military Review* 89, no. 4 (2009), 108-118. See also Benjamin Wittes, *Law and the Long War* (New York: The Penguin Press, 2008).

<sup>48</sup> For more discussion on intentionality, see Michael Gross, "Asymmetric war, symmetrical intentions: killing civilians in modern armed conflict," *Global Crime* 10, no. 4 (2009), 320-336.

<sup>49</sup> Rebecca Barber, "The Proportionality Equation: Balancing Military Objectives with Civilian Lives in the Armed Conflict in Afghanistan," *Journal of Conflict and Security Law* 15, no. 3 (2010), 474. For the International Red Cross's list of rules that summarize customary international humanitarian law, including many of the standards established in Protocol I, see Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law: Volume I*, International Committee of the Red Cross, 2005, <http://www.icrc.org/eng/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>.

<sup>50</sup> See also Rules 1, 7, and 14 of customary IHL. Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*.

<sup>51</sup> See, e.g., Laura Dickinson, *Outsourcing War and Peace: Preserving Public Values in a World of Privatized Foreign Affairs* (New Haven: Yale UP, 2011).

<sup>52</sup> Amitai Etzioni, "On Communitarian and Global Sources of Legitimacy," *The Review of Politics*, 73 (2011), 105-122.



# SAVE THE DATE

## *2014 American Patriot Award Gala*



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Sergeant Eric Rutherford



A platoon of Singapore infantry soldiers stand at attention as they await the arrival of Maj. Gen. Patrick Wilson



# A Swift and Decisive Victory

## The Strategic Implications of What Victory Means

BY CHONG SHI HAO

*"The mission of MINDEF [Ministry of Defence of Singapore] and the Singapore armed forces is to enhance Singapore's peace and security through deterrence and diplomacy, and should these fail, to secure a swift and decisive victory over the aggressor."<sup>1</sup>*

The national purpose driving the build-up of the Singapore Armed Forces (SAF) to its third generation has been the deterrence of any potential adversary and achieving victory if war does break out. Because the mission statement above serves as a guide for SAF's defense policy and also its transformation efforts, it is important to be clear about what this "victory" entails. The adjectives "swift and decisive" help to illuminate the nature of this victory that we seek to obtain. As Clausewitz puts it succinctly, "no one starts a war or rather no one in his senses ought to do so without first being clear in his mind what he intends to achieve by that war and how he intends to conduct it."

This quote sums up the concern of this essay, which aims to add clarity to what victory should look like, in light of recent events and the evolution of modern warfare. It is to help us be clear about the victory we want to achieve (i.e. what is winning?). The definition of the victory SAF aims to accomplish has to be re-examined within the context of today's debate over the future of war. The texture and nature of this victory have obvious implications for our conduct of war – strategy, operations and tactics (i.e. how to win?) – and also how we tailor future transformation of the SAF to meet what this victory requires (how we prepare ourselves to win?). One of the main issues here is that as warfare evolves, our notion of victory must adapt accordingly. Most

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importantly, a victory has to create the right conditions that will engender enduring peace and a positive strategic outcome. Indeed, what matters is the strategic outcome; a victory that is not just an operational and tactical one but also goes beyond the battlefield. This is exemplified by the conversation between Col. Harry Summers and a North Vietnamese officer; Col. Summers commented, “The United States had won all the battles;” to which the North Vietnamese replied, “That may be so, but it is also irrelevant.”<sup>2</sup>

Victory is perceived rather than objectively based on tangible measures. This perception is in turn shaped by traditional media and more importantly now, the new social media. Being able to manage social tools such as Twitter, Facebook and YouTube is crucial to shaping regional and international perceptions of victory. Rupert Smith likened conducting military operations to being, “on a stage, in an amphitheater or Roman arena.”<sup>3</sup> He argues that the media must be an integral part of planning, because it is the audience who decides whether the overall show is a success. Our conduct of war will have to address this.

This essay then will first discuss the sociopolitical context and developments in which the SAF may fight. This affects the definition of victory. It will then turn to our conduct of war in the pursuit of this victory.

### Today's Context

*“We are not likely to get the future right. We just need to make sure we don't get it too wrong.”*

– General James Mattis, USMC, Joint Forces Command Commander<sup>4</sup>

The nature of war has remained fundamentally unchanged throughout history, although the waging of warfare has evolved concomitantly with society and changing technology.<sup>5</sup> This is why we find the writings of Sun Tzu and Clausewitz so abiding and applicable even after so many years. Modern warfare has developed from the Napoleonic legions to static trench warfare to today's precision and network-centric warfare. War is a strategic concept while warfare is a tactical concept.<sup>6</sup> The way we conduct warfare must meet the purposes of the war we plan to win. The kind of victory and how we should seek it has to adapt to new circumstances.

### Hybrid vs. Fourth Generation Warfare

The current debate among scholars and military practitioners remains a U.S.-centric view of future threats. However, there are some general insights that can be gleaned from it. Fourth generation warfare, or 4GW, according to William Lind, is a return to warfare before nation-states existed, as diverse political entities fought each other.<sup>7</sup> They were religious, cultural, linguistic and racial groups, not just nation-states. 4GW practitioners choose targets with a mental and moral impact on the political will of their enemies in order to induce them to give up their strategic goals. They concentrate on crafting a persuasive message, rather than on destroying the material power of their enemy.

Hybrid warfare, whose main advocate is National Defense University's Francis Hoffman, argues that war is moving towards a convergence of categories,<sup>8</sup> a blurring of neat distinctions between conventional and irregular, combat actions and nation-building, terrorism and sabotages by commandos or paramilitaries. Further, states as well as non-state

actors that share the same strategic interests can conduct hybrid war, making a war against them complex and intractable.<sup>9</sup> This type of conflict favors the country that can wage asymmetric and conventional warfare simultaneously, through the use of their uniformed soldiers and civilian-dressed irregulars. The problem Hoffman raises is that armies tend to settle for elegant categories of threats and fail to acknowledge the complex “blending of threats that could exist.”<sup>10</sup>

While the SAF has adopted the full spectrum operations concept, with different army formations fulfilling various operations, we need to acknowledge the possibility that in theater we have to perform the whole gamut of missions simultaneously (lethal, non-lethal,

stabilization operations, etc.). This entails having flexible mindsets regarding what we are supposed to do and possessing adaptable skills.

Colin Gray warns that the danger for defense policymakers is the propensity to develop solutions for challenges they prefer and find easy to solve, rather than what their adversaries are most likely to do.<sup>11</sup> The assumption that our potential adversary will always fight conventionally might be an assumption we should beware of. Knowing this, our adversary could exploit racial, religious, linguistic and any other fissures to his full advantage, requiring us to prepare for a form of “hybrid war where adversaries attempt to simultaneously employ traditional, disruptive,



Col. Preston Reed

U.S. Marine Cpl. Julian McBride places the company guide-on with the company flags from 1<sup>st</sup> Battalion Singapore Guards to mark the beginning of Exercise Valiant Mark in Singapore, Sept. 19, 2011. Exercise Valiant Mark, in its 10<sup>th</sup> iteration, is an annual exercise conducted by U.S. Marines and the Singapore Armed Forces in order to maintain a high level of interoperability, enhanced military to military relations and to enrich mutual combat capabilities through combined training.

catastrophic and/or irregular capabilities to attain their objectives.”<sup>12</sup>

### Humanization of Warfare

Societies around the world are generally becoming post-modern in culture, attitudes and values. Singapore is no exception in today’s global village. Postmodernism has led to a more humane society with a greater emphasis on individual rights, autonomy, diversity and a reduced emphasis on authority.<sup>13</sup> The older generations often criticize the army as having gone “soft;” rather, SAF has actually become more humane in our training, as opposed to going “slack.”

Postmodernism has changed society’s view of war. While pre-modern violence may have been isolated from most of society, post-modernists demand a more stringent use of

force by their armed forces and are wary of sending soldiers into harm’s way.<sup>14</sup>

British scholar Christopher Coker argues that the accumulated impact is the humanization of warfare.<sup>15</sup> Greater individualism and greater importance attached to humanity in war (evidenced by the dramatic decrease in the cost in human lives today) have made it the duty of generals to keep their soldiers alive for as long as possible. Coker argues that “the modern battlefield has no place for the ‘bloody boots on the ground realists who insist you cannot win without planting the flag on enemy turf while wading in the blood of your comrades.’”<sup>16</sup>

What then is the implication of this process? A military is not divorced from the society but shares its attitudes. The fear is that the concern for human lives, itself a laudable



1st Lt. Lory Stevens

Lt. Col. James Tan of the Singapore Armed Forces speaks with local contractors, Sep. 25, 2008, at the site for the Bamyán Regional Health Training Center.

thing, can become so overwhelming that force protection becomes emphasized over the aggressive tactics required for mission success. Part of the solution has been the increasing reliance on technology to deliver victory, such as unmanned aerial vehicles, precision guided munitions, robotics, etc. The revulsion felt towards excessive loss of human lives is the “new normal,” and it is the commanders’ responsibility to use economy of force to achieve the mission. However, casualty aversion can become a problem. In the Bosnia war, senior officers saw casualties as an indicator of the operation’s failure and as a result, made force protection an imperative over restoring peace in the region. In the end, criminals were not pursued, community building projects forestalled and patrols cancelled because all these entailed sending in foot soldiers and endangering their lives.<sup>17</sup> Casualty aversion also underpins the desire of politicians to set timelines and formulate exit strategies that can imperil the mission.

### Industrial Society vs. Information Society

Many parts of the world are progressing from an industrial to a networked or information society. An information society is one in which the production, diffusion and consumption of information dominates the cultural, economic and political spheres of life in the country.<sup>18</sup>

This shift from the tangible to the intangible forms the basis of economic and socio-political life and has pronounced repercussions on how victory is sought. In a state-on-state war, the Clausewitzian center of gravity may no longer be the material basis of the country, i.e. the capital cities and the industries, as was the case in the two world wars. This has shifted to the information

sphere, the media, and the hearts and minds of the populace. No doubt it will still be critical to target the infrastructure of the enemy, but destroying enemy infrastructure is less strategic in achieving victory than having decisive influence in the information domain.

One noteworthy aspect of this shift is the powerful use of social media tools by citizens around the world to amplify their efforts in opposing the state. The proliferation of image capturing devices empowers every person to become a potential security risk, intelligence gatherer and journalist. Everyone with a camera phone is able to capture and upload information to the internet and circulate it instantaneously throughout the world via online social networks such as Facebook, YouTube and Twitter. This poses immense challenges for governments. Recent examples testify to the impact of social media. The Iranian opposition, for example, managed to capture the world’s attention by using mobile phones to capture atrocities committed by the Basij paramilitaries and the Republican Guard units. Most notable was the shooting of Neda Agha-Soltan, whose “martyrdom” for the opposition’s cause was mobilized as a powerful rallying symbol for the green movement. Footage was widely circulated on the internet which provoked a global outcry against the Iranian establishment. Ethical misconduct, human rights abuses and atrocities can destroy any prospect of strategic victory even if the enemy is defeated.

### Swift and Decisive?

U.S. forces achieved a swift and decisive win over the Iraqi army during Operation Iraqi Freedom. This win was proclaimed by the theatrics of then-President George W. Bush who landed on USS Kitty Hawk, declaring, “Mission

Accomplished.” Retrospectively, no one today will still claim that it was victory at that point, for a bloody insurgency ensued and more U.S. servicemen were killed after that declaration on May 1, 2003, than during the initial advance.<sup>19</sup> The Iraq war hence elicits two cautionary notes for any leadership: one can “win the war but lose the peace;” and secondly, how one wins the war can determine whether one wins the peace.<sup>20</sup>

Both hybrid warfare and 4GW advocates agree that future wars will be slow, lengthy and cumbersome, as opposed to a clinical one like Operation Desert Storm.<sup>21</sup> One main reason for this is the post-conflict obligations imposed on the victor to rebuild a war-torn area lest it become a breeding ground for future troublemakers. Humanization of

warfare has made it incumbent on the occupier/victor to rebuild what he has destroyed so that civilians can maintain their basic right to a decent living.

The concept of swift and decisive wars might be anachronistic, if not an anomaly in history. As one author argues, “statistically, this heuristic notion is clearly an anomaly, and historically, it may be nothing more than a grossly simplified recollection of some of those wars that disproportionately shape our understanding of the term.”<sup>22</sup> Recent examples would be World War II and the first Gulf War. We can aim for a swift end to the war, but not the victory. For the victory to be decisive, it has to meet two conditions, according to scholar Michael Howard; “First, the defeated people must accept the fact of defeat and realize there



Photographers Mate 3<sup>rd</sup> Class Juan E. Diaz

Mission Accomplished; celebrating the end of major combat operations and the end of the regime of Saddam Hussein in Iraq, 2 May 2003 – but still a ways to go.

is no chance of reversing the verdict in the foreseeable future, whether by military revival, skillful diplomacy or international propaganda. Second, they must become reconciled to their defeat by being treated as partners in operating the new international order."<sup>23</sup>

### Victory in Today's Context

Victory has become a shorthand and catchall term for many scholars and policymakers in describing positive outcomes in war.<sup>24</sup> This becomes problematic when we begin to confuse operational and tactical success with a victory that can serve the country's interests. It is more than just defeating our adversary on the battlefield. Not being clear about the kind of victory we want may result in catastrophic consequences for the country. The key point here is we need to do more than win the battles SAF potentially must fight.

### What is Victory?

*"It is no doubt a good thing to conquer on the field of battle ... It needs greater wisdom and great skill to make use of victory."*

– Polybius<sup>25</sup>

Victory in war is not merely about winning, to put it simply. Victory is based on an assessment – not a fact.<sup>26</sup> Therefore, there is a subjective element to it that depends on the perceptions of various actors such as the domestic and adversary populations, and the international and regional political leadership and community.<sup>27</sup> Nevertheless, this has to be buttressed by winning battles, which is objective because it involves pitting material against material – soldiers, platforms, and firepower against soldiers, platforms, and firepower.

Clausewitz said victory is tripartite and consists of three elements, namely; 1) the enemy's loss of material strength, 2) his loss of morale, and 3) his open admission of the above by giving up his intentions.<sup>28</sup> We can envisage victory as a continuum or sliding scale of outcomes, rather than as a simplistic binary of victory and defeat.<sup>29</sup> Or we may dissect victory into various levels – tactical, operational, and strategic – or as William Martel prefers: tactical, political-military, and grand strategic.<sup>30</sup> In Martel's encapsulation tactical success refers to what the military achieves on the battlefield while political-military encompass the change in the adversary's political behavior caused by the cumulative effect of many tactical wins. The last is a victory of "such magnitude that it leads to a profound reordering in the strategic foundations of international politics," when the "ideological and moral values of a society" are destroyed and "the foundations of the enemy state" are re-established.<sup>31</sup>

J. Boone Bartholomees prescribes a toned down version of strategic victory (perhaps less grand compared to Martel's), saying, "Strategic victory in war is a positive assessment of the postwar political situation in terms of achievement and decisiveness that is acknowledged, sustainable, and resolves underlying political issues."<sup>32</sup>

### The Victory SAF Should Aim For

Based on the discussion so far, this is what a SAF victory should look like.

- The victory we should aim for should be akin to Martel's political-military and Bartholomees' definition of the strategic victory. There must be tactical and operational success, predicated on more tangible metrics

such as the amount of enemy territory seized, number of casualties and their loss of equipment. These are military objectives that underlay the foundation of victory.

- Because of the information society we reside in, we need to manage interpretations of our war effort in order to generate victory. This pertains to perspective, and we need to target domestic and regional populations, as well as international political leaders through careful utilization of different media channels. This is the cognitive domain of war.
- Humanization of warfare prohibits indiscriminate destruction of civilian lives and property (recall the international outcry against Israel's Operation Cast Lead in 2008). The war has to be ethical and right. This is the moral domain of war.
- The peace that comes with the end of hostilities must be enduring and allow the successful rebuilding of affected areas. A picture of stability and hope is necessary for victory to be perceived.
- We need to translate this victory into long-term political gains for the country.

### The Conduct of War

As Rupert Smith argues in his seminal book, *The Utility of Force*, wars can no longer be won through the application of pure military force alone.<sup>33</sup> We as soldiers who stand at the tip of the spear must conduct the war in a manner that does not subvert the prospects of lasting peace.<sup>34</sup>

**Tactical:** As Lt. Col. Daniel Lasica argues, "the hybrid warrior seeks to quickly convert their tactical success and their enemy's mistakes into strategic effects through deliberate exploitation of the cognitive and moral

domains. Hybrid war is a strategy and a tactic, a form of war and warfare."<sup>35</sup>

Online social media have become a powerful platform for citizen journalism in the current information society. One should expect this in any area of operations we are in. Soldiers need to be aware that the aggregation of their individual actions can have an impact on the perception of how the war is being fought. Disparate acts of inhumanity and atrocities recorded by civilians with camera phones and propagated on viral social networks abroad will paint a negative picture of our operations. This will taint whatever success we have in operations and affect the sense of victory.

This success thus depends on the values of our individual soldiers. Their ethical conduct in war towards enemy combatants and civilians in the pressure of war will contribute to the sense of victory, especially when perceived by the international community. On the other hand, tactical mistakes such as the air strike ordered by a German officer that killed 142 civilians in Afghanistan will certainly be exploited.<sup>36</sup>

**Operational:** Our conduct of media operations will be as crucial as our execution of battles on the ground. The media front will consist of traditional media and the new media – including, but not limited to Twitter, Facebook and YouTube. The same point made above can, in turn, be used against the enemy. Their mistakes and misconduct, if filmed or otherwise documented publicly, can be used against them. We should not leave the framing of the war effort to chance, and even less to our adversary. We should set the structure, tone and plot of the ongoing narrative in the public sphere, local and international.



For example, al-Jazeera’s focus on broadcasting visceral images of suffering Iraqis and Palestinians decisively shapes public opinion in the Arab world, framing the message of a medieval crusade against the Muslim world. A narrative that paints our operations in a negative light will not help us in achieving a decisive victory. The challenge will be crafting a calibrated message that does not seem like propaganda and is yet sufficiently nuanced to persuade others to be on our side. Indeed the media is itself a weapon we must wield to our advantage.

An example of an operational failure would be the raid by Israeli commandos on a flotilla bound for Gaza.<sup>37</sup> The ostensible aim of the convoy was to bring aid to Gaza, but it really was trying to focus international attention on the Israeli blockade. The Israelis took

the bait and launched an assault on it, oblivious to the filming of its actions by an al-Jazeera crew on board the ship. It did not matter that the crew on board used violence first. What the world saw was Israel’s willingness to confront the flotilla with disproportionate force, regardless of its purpose. This incident shows how media shaped international public opinion and strengthened the hands of the activists. It also demonstrated Israel’s failure to understand the larger, strategic context of the operation.

Stability operations involving the rebuilding of war-torn rear areas should start immediately as the frontline advances. We should take a leaf from the United States’ failure in Iraq. We can leverage the strong interagency collaboration honed over the years through Singapore’s organization of national day



IDF Naval Forces prepare to implement the Israeli government’s decision to prevent the flotilla from breaching the maritime closure on the Gaza Strip. May 29, 2010.

parades, youth Olympics, etc., working with civilian agencies, and international non-governmental organizations to quickly bring aid, funds and material to rebuild areas that have been destroyed, as and when they have been stabilized.

The faster a semblance of stability can be established, the more difficult it will be for insurgents to take advantage and mount asymmetric warfare. Rebuilding should be carried out concomitantly as war proceeds, though we must anticipate that it will be a significant strain on finite resources. This can be mitigated by quickly engaging international aid agencies to facilitate recovery processes in rear areas. If swift stability can be brought to the affected civilian populace, it may also break the will of the insurgents to resist our forces, and may bring about sustained eventual victory. This is necessary to create enduring peace. Indeed rebuilding is our onus and unavoidable responsibility if victory is our aim.

**Strategic – Creating the Right Political Conditions:** Battlefield success alone does not determine the outcome of wars, but it does provide political opportunities for the victors.<sup>38</sup> Most importantly, military operations must be tempered with political tolerance and moderation so as to make defeat acceptable to the defeated. The waging of the war must take place in tandem with strict political control in order create the conditions for lasting peace. To win, one achieves his immediate political goals, but to be victorious one must resolve the underlying issues such as the motivations and the catalyst that led to war in the first place.<sup>39</sup>

Given this, we need to know what the political goals are and the military objectives must serve these goals.<sup>40</sup> However, the political goals cannot be too precisely defined, must be achievable and realistic, and yet leave enough

ambiguity and broadness to permit a range of end states at the conclusion of the war. Being able to openly declare how we have achieved our goals is vital to the collective sense of victory.

We also need to understand the enemy's theory of victory, so as not to play our chess pieces into his hands. For example, Hezbollah in its 2006 conflict with Israel could claim victory merely by surviving the Israeli onslaught;<sup>41</sup> whereas the Israeli Defense Force (IDF) sought to recover Israel's kidnapped soldiers, destroy Hezbollah and kill its leader Hassan Nasrallah. The IDF failed in all three aims.<sup>42</sup> It was overly ambitious and the IDF set itself up for failure. Nasrallah certainly underestimated Israel's vehement response but turned the situation around by his skillful manipulation of the media.

Further, the defeated must accept the verdict, as their cooperation is necessary for success to be exploited.<sup>43</sup> World War II can be argued to be the continuation of the disastrous handling of World War I's aftermath by the Allies at Versailles, as the German people did not internalize their defeat and perceived the loss as a betrayal by their political leaders. Thus, open admission of defeat as stated in Clausewitz's trinity of victory cannot be limited only to the politicians but must include an admission by the people as well. If peace is the desired outcome and war is the aberration, then victory should lead to an enduring peaceful state. We ought to ask ourselves what are our post-conflict obligations. Should we be able to bring a swift end to hostilities, our active participation in post-war rebuilding will be crucial in securing our long-term political interests in having a friendly and prosperous partner. The temporal impermanence of

victory needs to be considered as it can easily and quickly be squandered.

## Conclusion

We are in good stead to tackle these developments. The five aspects of SAF's total defense concept are prescient and far-sighted (military, civil, economic, social, and psychological).<sup>44</sup> They create a bulwark against a coherent and multi-pronged hybrid attack. Hypothetically, the adversary can commit terrorist attacks on our home soil while a larger scale war is fought on another front, in an attempt to erode the will of the population to fight. The adversary could also sow discord among racial and religious groups to compound the effect. This is where social and psychological defense play a crucial role in warding off such attacks.

We must continue to train soldiers to have well-anchored values, and commanders who are adaptive and flexible should remain one of our key foci. They must also be resilient to endure and face the uncertainties of the future battlefield.<sup>45</sup> They will face greater scrutiny on the battlefield as a result of the all-pervasive influence of traditional and new media. The emphasis on individual leadership becomes salient, as small units become more dispersed in urban fighting environments.

Indeed, changing technology and socio-political developments drive the way wars are fought and won. Hybridization and humanization of warfare affect how we conduct our war. Information societies have shifted the Clausewitzian center of gravity from the tangible to the immaterial, especially with the advent of social media. The cognitive and moral domains of war have superseded the importance of the tangible and material metrics that used to dominate military calculations. These developments require us to

re-examine our notions of victory, given its place in SAF's mission statement. A swift and decisive success on the battlefield must be achieved to translate to victory in a political and strategic sense. This is especially important for the post-combat phase, as perception of victory often depends on what happens in the aftermath. Ultimately this hard earned victory should lead to enduring rather than impermanent peace. **PRISM**

## NOTES

<sup>1</sup> Ministry of Defense Singapore – About Us, [http://www.mindef.gov.sg/imindef/about\\_us/mission.html](http://www.mindef.gov.sg/imindef/about_us/mission.html), accessed 17 September 2013.

<sup>2</sup> Colonel H. G. Summers Jr., *On Strategy: A Critical Analysis of the Vietnam War* (California: Presidio, 1982), 1.

<sup>3</sup> R. Smith, *The Utility of Force* (New York: Alfred A. Knopf, 2006), 284–285.

<sup>4</sup> J. Mattis, USMC, quoted in M. T. Owens, "Reflections on Future War," *Naval War College Review*, 2008, 74.

<sup>5</sup> General G. W. Jr. Casey, "September 8 - Singapore Temasek Club," 13 December 2009, <http://www.army.mil/-speeches/2009/09/14/27329-sept-8-2009—singapore-temasek-club/index.html>.

<sup>6</sup> Lt. Colonel D. L. Lasica, *Strategic Implications of Hybrid War: A Theory of Victory* (US Command and General Staff College, 2009), 30.

<sup>7</sup> W. S. Lind, "Understanding Fourth Generation War," 13 December 2009 <http://www.antiwar.com/lind/index.php?articleid=1702>.

<sup>8</sup> F. G. Hoffman, *Conflict in the 21<sup>st</sup> Century: The Rise of Hybrid Wars* (Virginia: Potomac Institute for Policy Studies, 2007), 9.

<sup>9</sup> *Ibid.*,

<sup>10</sup> Lasica, *Strategic Implications of Hybrid War*, 5.

<sup>11</sup> C. Gray, "How has War Changed Since the End of the Cold War?," *Parameters* (2005), 35. Gray states three additional caveats in answering the

question of his essay: 1) do not neglect war's political, social and cultural contexts 2) trend spotting is not a good guide to the future 3) surprises happen.

<sup>12</sup> Colonel Steven C. Williamson, "From Fourth Generation Warfare to Hybrid War," thesis, US Army War College, 20.

<sup>13</sup> R. Inglehart, *Modernization and Post-Modernization: Cultural, Economic and Political Change in 43 Societies* (New Jersey: Princeton University Press, 1997).

<sup>14</sup> K. Payne, "Hybrid war vs. Postmodern War," 24 March 2009, <http://kingsofwar.wordpress.com/2009/05/16/hybrid-war-v-postmodern-war>.

<sup>15</sup> C. Coker, *Humane Warfare* (New York: Routledge, 2001), 17.

<sup>16</sup> *Ibid.*, 18.

<sup>17</sup> *Ibid.*, 78.

<sup>18</sup> M. Castells, "The Rise of the Network Society," in *The Information Age: Economy, Society and Culture* 1, no.1 (Malden: Blackwell, 2000).

<sup>19</sup> Colonel T. X. Hammes, *The Sling and the Stone* (Minnesota: Zenith Press, 2004), 172.

<sup>20</sup> T. W. Crawford, Book Review, 13 December 2009, [http://www.politicalreviewnet.com/polrev/reviews/JOPO/R\\_0022\\_3816\\_629\\_1007682.asp](http://www.politicalreviewnet.com/polrev/reviews/JOPO/R_0022_3816_629_1007682.asp).

<sup>21</sup> R. Mandel, "Reassessing Victory in Warfare," *Armed Forces & Society* 33, no. 4 (2007), 466. Mandel argues that the occurrence of clear-cut victories has been declining, with few terminating in clean decisive victories over the other.

<sup>22</sup> J. Black, "Descent into Theater," March 24, 2011, [http://kingsofwar.org.uk/2010/06/descent-into-theatre/?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+KingsOfWar+%28Kings+of+War%29&utm\\_content=Google+Reader](http://kingsofwar.org.uk/2010/06/descent-into-theatre/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+KingsOfWar+%28Kings+of+War%29&utm_content=Google+Reader).

<sup>23</sup> M. Howard, "When are Wars Decisive?" *Survival* 41 (1999), 132.

<sup>24</sup> W. C. Martel, *Victory in War: Foundations of Modern Military Policy* (Cambridge: Cambridge University Press, 2007), 293.

<sup>25</sup> Martel, *Victory in War*, 20.

<sup>26</sup> J. B. Bartholomees, "A Theory of Victory," *Parameters* 37 (2008), 26.

<sup>27</sup> Mandel, "Reassessing Victory in Warfare," 465-466.

<sup>28</sup> Clausewitz, *On War*, 233-234.

<sup>29</sup> Bartholomees, "A Theory of Victory," 27.

<sup>30</sup> *Ibid.*, 33.

<sup>31</sup> Martel, *Victory in War*, 27.

<sup>32</sup> Bartholomees, "A Theory of Victory," 33.

<sup>33</sup> R. Smith, *The Utility of Force*.

<sup>34</sup> C. S. Gray, *Defining and Achieving Decisive Victory* (Strategic Studies Institute, 2002), 12.

<sup>35</sup> Lasica, *Strategic Implications of Hybrid War*, 3.

<sup>36</sup> M. Gebauer and J. Goetz, "German Officer Defends Controversial Afghanistan Airstrike," *Spiegel Online International*, March 24, 2011, <http://www.spiegel.de/international/germany/0,1518,677109,00.html>.

<sup>37</sup> G. Packer, "Israel Takes the Bait," *The New Yorker*, June 1, 2010, <http://www.newyorker.com/online/blogs/georgepacker/2010/06/gaza-flotilla.html>

<sup>38</sup> Howard, "When are Wars Decisive?," 130.

<sup>39</sup> Bartholomees, "A Theory of Victory," 28.

<sup>40</sup> Martel, *Victory in War*, 36.

<sup>41</sup> Lasica, *Strategic Implications of Hybrid War*, 30.

<sup>42</sup> A. Harel and A. Issacharoff, *34 Days: Israel, Hezbollah and the War in Lebanon* (New York: Palgrave Macmillan, 2008).

<sup>43</sup> Howard, "When are Wars Decisive?" 130.

<sup>44</sup> Ministry of Defense Singapore – Total Defence, [http://www.mindef.gov.sg/imindex/key\\_topics/total\\_defence.html](http://www.mindef.gov.sg/imindex/key_topics/total_defence.html), accessed 17 September 2013.

<sup>45</sup> COL. Ong Y. L., SLTC Lim B. C. and MAJ D. Lim, "Preparing Our Soldiers to Fight Tomorrow's Battles: A Warfighter-Adaptiveness-Resilience Model," *POINTER* 37, no. 1 (2011), 1.

the 1990s, the number of people in the world who are poor has increased. The number of people living on less than \$1 a day has increased from 1.2 billion in 1981 to 1.5 billion in 1995. The number of people living on less than \$2 a day has increased from 2.1 billion in 1981 to 2.5 billion in 1995.

There are many reasons for this. One reason is that the world's population has increased. In 1981, there were 5 billion people in the world. In 1995, there were 5.5 billion people in the world. Another reason is that the world's economy has not grown fast enough. The world's economy has grown at an average rate of 2.5% per year since 1981. This is not fast enough to keep up with the growth of the world's population.

There are also many reasons why the world's economy has not grown fast enough. One reason is that many countries are still poor. They do not have the resources or the technology to grow their economies fast. Another reason is that many countries are still in debt. They have borrowed money from other countries and now they have to pay it back. This makes it difficult for them to grow their economies.

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Master Sgt. Bill Huntington



Tech. Sgt. Keith Berry looks down into flooded streets searching for survivors. He is part of an Air Force Reserve team credited with saving more than 1,040 people in the aftermath of Hurricane Katrina. He is a para-rescueman with the 304<sup>th</sup> Rescue Squadron from Portland, Oregon.

# Evolving Internal Roles of the Armed Forces

## Lessons for Building Partner Capacity

BY ALBRECHT SCHNABEL AND MARC KRUPANSKI

The end of the Cold War more than two decades ago created new international realities, along with hopes and expectations for greater peace and stability worldwide. Part of that peace dividend was expected to be the result of a decrease in defense spending, with direct consequences for the size and functions of nations' armed forces. As a result, in parts of the world that benefited from increased security, the changing security challenges and interpretations of what should be considered suitable tasks and roles of armed forces have led to "profound ... shifts in their core roles ... (which are) ... increasingly challenging long-held assumptions about what armed forces are for and how they should be structured and organized".<sup>2</sup>

Governments and societies have been contemplating the appropriateness of newly defined or previously secondary purposes for their armed forces, which extend beyond their core role of national defense. These include the assignment of a variety of external and internal military and civilian roles and tasks. Some of these are performed as a subsidiary activity in support of operations under civilian command. An examination of the internal roles of the armed forces in 15 Western democracies shows that armed forces assist in internal security provision mainly as a resource of last resort when efforts are required to respond to exceptional situations. This is the case primarily during and after natural and humanitarian catastrophes as well as other emergencies that exceed the response capacities of civilian and hybrid security institutions. Under the command and control of civilian agencies, the usually subsidiary operations of the armed forces are designed to enhance the capacity of civilian security providers in such situations.<sup>3</sup> What does this mean for armed forces in the developing countries in their indigenous state-building

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processes? What are the implications for donor nations from the North in their efforts towards “building partner capacity?”<sup>4</sup>

This article is divided into six sections. Following this introduction, the second section focuses on conceptual considerations as well as distinctions between internal and external security roles provided by armed forces. The third section focuses on the empirical evidence obtained from the case studies examined for this article. The most common internal roles are introduced and key driving forces behind the armed forces’ engagement in internal tasks are highlighted. The fourth section summarizes widely shared reasons behind the internal engagements of the armed forces. The fifth section examines potential hazards and opportunities for utilizing armed forces for internal roles and tasks. The concluding section discusses the mapping exercise’s findings for donor countries’ support of defense reform and security sector reform activities in the global South, particularly as they concern internal roles and tasks envisioned for the armed forces of partner countries.

### **New Challenges, New Roles for the Armed Forces?**

It has become a common assumption that the role of the armed forces, especially among consolidated Western democracies, is to provide security against external threats, while police forces are tasked with providing internal security, surveillance and order inside a country’s borders. The distinction between external and internal security, as well as between the respective responsibilities of individual public security institutions, has been well documented,<sup>5</sup> even to the point of what Keith Krause calls a “seemingly natural division.”<sup>6</sup> Of course, this division was not the product of

a coherent process, nor did it innately appear. As Charles Tilly suggests, armies frequently served the purpose of consolidating wealth and power of princes, often at the expense of and in direct confrontation with the domestic population.<sup>7</sup> In fact, it is commonly understood that the demarcation of public security institutions’ external and internal roles (in particular armed forces and police, respectively) was not generally accepted and normalized until “the spread of modern nationalism in the 19th century ... [when] the boundaries between external and domestic start to coincide with formal legal frontiers.” Such an understanding of the clear boundaries between internal and external security provision and providers remained through most of the twentieth century, especially during the Cold War period. During this time, while most nations braced themselves for anticipated imminent international conflict, this division seemed apparent and almost natural.

The end of the Cold War, however, triggered new security threats which challenged the “traditional” roles assumed by armed forces, especially within consolidated Western democracies. During the early stages of the Cold War the main priority of security provision in the Euro-Atlantic area was the search for the most appropriate response to a broad spectrum of military, ideological, political, social and economic challenges from the Soviet Union. Under the pressure of the ensuing nuclear arms race this initially wide conceptualization was narrowed down to a largely military focus – and thus national and regional security provision became the prime task of states’ armed forces and the military strategies of individual states and their security alliances. To be sure, during the Cold War a substantial and identifiable military threat existed,



providing the rationale for considerable defense spending. The arms race between East and West was not only about the quality and quantity of arms, but also about which side (i.e. political, ideological and economic system) could withstand the greater financial sacrifices needed to remain politically and militarily competitive. Moreover, during this period the focus was primarily on deterring and managing inter-state conflicts, which encouraged the maintenance of adequately armed military forces for both deterrence and combat operations, if needed. These threats were also the main focus of regional military alliances and, for that matter, United Nations involvement in traditional peacekeeping as well as Chapter VII military operations. Other parallel realities of course existed, such as internal conflicts (genuine intra-state wars and proxy wars of the superpowers) and various internal roles of armed forces that were unrelated to the suppression of internal violence or the deterrence of external threats. However, those non-traditional activities were overshadowed by Cold War priorities.<sup>9</sup>

After the likelihood of war between East and West faded away with the dissolution of the Soviet Union in 1991, predominant realist assumptions about the primacy of military security became less pronounced in national and international policy debates. The concept of security utilized by most Western states expanded to include a broader variety of threats (such as environmental, criminal or economic threats) at increasingly diverse levels of analysis above and below the state. Official security discourses during the Cold War focused primarily on national security, gave way to a more nuanced understanding of security needs beyond the individual state (at the regional and international levels) as well as

below the state (at the levels of communities and individuals).<sup>10</sup> “Deterrence” has since been taking on a different, more subtle meaning: human rights provision assures human security; development assistance supports economic security; long-term investments in environmental protection facilitate sustainable environmental security; and the alleviation of poverty serves as a strategy to prevent violent community-based conflict. Moreover, international cooperation is increasingly considered to be the most effective approach to the prevention of inter-state and intra-state conflict and a plethora of new security challenges, including the growing fear of global terrorism.

*The end of the Cold War was accompanied by widespread societal and political expectations for a considerable peace dividend ... including calls for their downsizing and decreased military and defense spending.*

The end of the Cold War was accompanied by widespread societal and political expectations for a considerable peace dividend, which carried consequences for states’ armed forces, including calls for their downsizing and decreased military and defense spending. As Timothy Edmunds argues, first “the end of the Cold War removed the dominant strategic lens through which armed forces were developed and understood, and has entailed a fundamental reconsideration of their purpose and the bases for legitimacy across the [European] continent.”<sup>11</sup> This has triggered wide-ranging defense reviews, significant cuts in military budgets and societal scrutiny of the armed forces’ roles, tasks and purposes.<sup>12</sup> Second, particularly in the wake of the

dissolution of the former Yugoslavia, the “traditional” roles of armed forces have been challenged in the context of ethnic and civil conflict, in terms of both the roles of national armed forces as conflict parties and the involvement of external armed forces in international peace operations. Third, an increased emphasis on drug enforcement began to take off in the 1970s and especially in the 1980s, particularly in the United States. Based on the presumption that the military should not engage domestically, this development led to increased militarization of police services in order to combat the new threat. While this has put more military-type resources and capacities in the hands of the police, it has also allowed for greater engagement by the armed forces in domestic affairs, especially through the provision of tactical equipment, training

and intelligence sharing.<sup>13</sup> Fourth, the terrorist attacks of 11 September 2001 “reinforced existing pressures towards the development of expeditionary capabilities in reforming armed forces ... (which are) ... illustrative of the emerging dominance of Anglo-American concepts of military professionalization in the wider security sector reform area,” along with counter-insurgency and internal security tasks of the armed forces.<sup>14</sup> The focus on the war on terror has also challenged the armed forces’ previous status as the primary organization capable of defending a state against external – terrorist – attacks. According to Edmunds, intelligence, border and police forces “may be more suited to meeting day-to-day operational challenges posed by international terrorism, and over the long-term the utility of the military in this role may be limited.”<sup>15</sup>



Dan Twomey

Knox County Sheriff's Office SWAT, 2010

This final point on the heightened perceived threat of terrorism deserves further discussion. Although expectations for a peace dividend due to the end of the Cold War put pressure on states to downsize their armed forces, new and diverse military commitments proliferated considerably. National defense strategies now placed emphasis on the so-called “war on terror” and the deterrence of terrorist threats, which put an increased importance on the role of armed forces and – contrary to expectations – increased defense spending (particularly in the United States). These newly defined national security priorities included the need to be prepared to prevent, deter, coerce, disrupt or destroy international terrorists or the regimes that harbored them and to counter terrorists’ efforts to acquire chemical, biological, radiological and nuclear weapons. Multilateral peace and stabilization operations and defense diplomacy were seen as important assets in addressing the causes and symptoms of conflict and terrorism.<sup>16</sup> Numerous crises – ranging from Kosovo to Macedonia, Sierra Leone, East Timor, Afghanistan, the Democratic Republic of the Congo, Iraq, Libya and, most recently, Syria – have demonstrated that the global security environment was to be as uncertain as ever and armed forces were facing an even broader range, frequency and often duration of tasks than previously envisaged.<sup>17</sup> Along with an increased focus on international roles, internal roles were both highlighted and given greater attention.<sup>18</sup> However, as an examination of evolving internal roles illustrates, they are diverse, dynamic and do not seem to follow a unitary logic even across the very small sample of countries referred to in this article – countries that reflect similar standards of political and security governance, are operating in a

very similar security environment and shared a similar logic during the Cold War. As such, much greater variation is expected if comparative examinations would move beyond the context of Western Europe and North America.<sup>19</sup>

### Comparative Review of Evolving “Non-Traditional” Internal Roles and Tasks<sup>20</sup>

Contrary to popular and traditional conceptions of armed forces’ missions, a broad and diverse range of internal roles and tasks are performed by all branches of the armed services in all the countries examined. In fact, some of these tasks are considered core functions of the armed forces according to regulating legal frameworks, such as national constitutions, as well as public organizational mission statements of the armed forces.

Internal roles and tasks of armed forces are varied and increasingly prevalent among the 15 countries examined. The exact role, authority and restrictions depend on historical, legal, social and political contexts that are particular to each country. Typically, internal roles and tasks can include education of civilians (youth re-education centers or specialized training centers); cartographical and meteorological services; road and infrastructure construction, improvement and engineering; and assistance to public administration and the population in case of the occurrence of a major industrial incident, a massive terrorist attack, a sanitary crisis following a major disaster, or natural disasters. They can include search and rescue operations; law enforcement; environmental protection; medical support for poor communities; support of training and education opportunities for disadvantaged youth; border surveillance; provision of security for supplies (food, energy, transport,

storage, distribution networks and information systems); security provision during major public events (international sport championships or major global conferences); and the replacement of vital services during work stoppage (strikes or labor movements disrupting economic activity). They can encompass counterterrorism – offensive and defensive measures to prevent, deter or respond to (suspected) terrorist activities; anti-smuggling and anti-trafficking operations; anti-drug operations – detecting and monitoring aerial or maritime transit of illegal drugs; integrating command, control, communications, computer and intelligence assets that are dedicated to interdicting the movement of illegal drugs; supporting drug interdiction and enforcement agencies; and humanitarian aid at home. Many of these tasks are subsidiary ones performed under the command of other security institutions.

*The armed forces are thus called upon to assist in internal security provision in situations that require exceptional efforts to respond to exceptional situations*

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For instance, in Belgium these roles and tasks of the armed forces include assistance to the civil population, maintenance of public order and humanitarian assistance and relief assistance in cases of natural disasters and at times of terrorist attacks.<sup>21</sup> In France internal tasks include civil-military actions at home – missions in support of police and gendarmerie; missions to benefit the civilian population and humanitarian missions (the latter can be carried out in cooperation with civilian aid organizations); civil defense – responses to national catastrophes and the preservation of public order; counterterrorism operations; and

involvement in other “states of urgency.”<sup>22</sup> In Spain the armed forces provide mostly unarmed civil defense and intervention in cases of emergency and counterterrorism operations.<sup>23</sup> In the UK internal tasks include the restoration of public security after internal emergency and natural disasters.<sup>24</sup> In Canada, upon request, the armed forces provide support during major public events, such as the Olympic Games and international summits, technical and equipment support for enforcement of maritime laws and operations to ensure public order.<sup>25</sup> The Italian armed forces perform a broad range of internal roles and tasks, including operations to restore public order; counterterrorism operations; disaster response, such as combating forest fires; scientific research, including release of meteorological data; and law enforcement.<sup>26</sup> German armed forces handle internal tasks such as support during a state of emergency (e.g. disaster response or restoration of public order); community support, such as harvest support; environmental protection; search and rescue missions; and technical aid to assist the police.<sup>27</sup>

The armed forces are thus called upon to assist in internal security provision in situations that require exceptional efforts to respond to exceptional situations – natural or humanitarian catastrophes that exceed civilian and hybrid security institutions’ capacities. At the same time, the capacity of civilian security institutions to respond to these situations is kept to a limit because the situations rarely arise, considerable costs are involved in preparing for them, and these capacities are already maintained regularly by the armed forces and thus exist within easy reach of civilian authorities and security institutions.

The following paragraphs review a broad range of internal roles and specific tasks

performed by the armed forces, based on the country research supporting this article, organized along five main clusters: Law enforcement-related tasks; disaster assistance-related tasks; environmental assistance-related tasks; cross-over tasks; and miscellaneous community assistance.<sup>28</sup>

### Law Enforcement-Related Tasks

Of the overall 20 categories of roles identified in the research effort, ten fall under a broader cluster of law enforcement-related tasks. The tasks vary substantially in terms of their prevalence across the countries examined and their apparent legitimacy. For instance, this category includes tasks related to “public order” which have been documented in all the countries reviewed. They often appear as one of the core functions of the armed forces as ascribed in the respective constitutions. However, the same category also includes tasks related to “crime investigation,” which in contrast have been the least documented, if not most restricted, tasks across the country surveys.

**Public order:** Public-order-related tasks include support in times of civil disorder and unrest, such as riots, strikes and rebellions. In fact, armed forces of most of the nations in this sample have engaged in public-order-related tasks throughout their history. It has been only relatively recently, for the most part within the past 150 years, that many of the countries examined established certain limits on these types of activities or raised the threshold for their engagement. Often this has coincided with the development of domestic security institutions, especially police services and paramilitary police units. Nonetheless, all the countries surveyed permit their armed forces to engage in public-order-related tasks, which are often referred to as core functions in

constitutional and legislative frameworks. Still, such involvement is nearly always limited to situations of last resort or when domestic police services are unable to address the threat.

**Counterterrorism:** Domestic counterterrorism roles have expanded greatly since the terrorist attacks of 11 September, 2001. The tasks covered under this label can be vast and vary from state to state. Often they include monitoring external threats to borders, border security, domestic intelligence gathering and post-attack response.

**Border control:** Border control and surveillance can involve national security, counterterrorism, drug interdiction and immigration enforcement operations. The hybridity of border control depends upon the perceived threats or needs of each country, and can change with time and context.

**Drug enforcement:** Drug enforcement assistance includes support to local and national police forces and/or gendarmeries in preventing illicit trafficking of controlled substances, particularly at ports of entry, as well as providing assistance, training and equipment for monitoring and arrests. While armed forces of certain states may be more heavily engaged in drug enforcement internationally, for the most part this is more severely limited domestically. However, this engagement allows for cooperation with domestic drug enforcement agencies, including information-sharing, provision of technical assistance and transference of tactical equipment.

**Law enforcement:** Here the specific task of law enforcement refers to the provision of assistance to facilitate arrests. Assistance may include equipment provision, training and surveillance, but rarely includes personnel to make direct arrests. Indeed, the use of the armed forces for domestic law enforcement

remains one of the more controversial internal roles, although eight of the countries surveyed have utilized armed forces to support such efforts. However, tight restrictions are placed upon the direct ability of military personnel to arrest civilians domestically. The U.S., German and Spanish armed forces have the strictest prohibition on law enforcement engagement.

**Crime investigation:** Not to be confused with law enforcement, crime investigation-related tasks may include support at crime scenes (e.g. documenting crime scenes and collecting evidence), searching for missing persons and facilitating arrests and/or equipment provision, including surveillance equipment. However, similar to law enforcement tasks, these roles are greatly restricted across the

majority of the nations reviewed. Of the roles identified, crime-investigation-related was the least cited among the countries surveyed, with just five countries identified as utilizing their armed forces in this way. In particular, tight restrictions are placed on the ability of military personnel to arrest civilians domestically.

**Support for major public events:** Support for major public events varies depending on each event and relevant security agreements made, but can include, among other tasks, providing building and personnel security, air and satellite operations, and medical tents and equipment provision. In addition to global sporting events, such as the Olympics, the relatively recent prevalence of international summits has seen a great increase in the use of



The Border Security Force (BSF) is a Border Guarding Force of India. Established on December 1, 1965, it currently stands as the world's largest border guarding force.

the armed forces in support of domestic security institutions.

**Building and personnel security:** Building and personnel security comprises “physical security measures including guard forces and various surveillance and authentication methods, including biometrics.”<sup>29</sup> Often, the armed forces are used to secure royal facilities in constitutional monarchies as well as sites used by foreign dignitaries, particularly embassies, in West European capitals.

**Cyber operations:** Cyber-attacks involve assaults on computer networks, or exploitation and jamming of equipment. Cyber operations can be offensive or defensive, although they are usually confined to defensive roles in the internal context.<sup>30</sup> In addition, the armed forces may provide technical support and training to domestic agencies or limited sharing of technical equipment.

**Intelligence gathering:** Intelligence gathering refers to domestic data and information gathering. Usually related to another category such as counterterrorism or drug enforcement, it may also be relevant to general law enforcement and political purposes. However, when used in these two contexts, intelligence-gathering-related activities are highly restricted in most countries reviewed. Because of the sensitivity of the specific operations, intelligence-gathering tasks tend to be mentioned only vaguely and in passing.

### Disaster-Assistance-Related Tasks

Among the five overall clusters, the use of the armed forces for disaster-assistance-related tasks appears the least controversial and, increasingly, the most authorized and utilized. Each of the 15 countries reviewed permit the use of its armed forces to provide domestic

disaster assistance, although they vary in terms of the triggering mechanisms for deployment.

**Domestic catastrophe response:** Domestic catastrophe response requires adequate disaster preparedness, including the “planning, training, preparations and operations relating to responding to the human and environmental effects of a large-scale terrorist attack, the use of weapons of mass destruction” as well as “governmental programs and preparations for continuity of operations (COOP) and continuity of government (COG) in the event of an attack or a disaster.”<sup>31</sup> While at times included within concepts, strategies and programs of “disaster preparedness” or “relief,” domestic catastrophe response also exists as its own category, including within military missions and operations.<sup>32</sup> As with disaster-relief-related tasks more generally, domestic catastrophe response represents one of the most prevalent internal uses of the armed forces across the countries surveyed. In addition, it often appears as one of the core tasks of the armed forces as detailed in respective constitutions or core pieces of legislation.

**Disaster relief:** Disaster relief tasks include efforts to anticipate and respond to natural and man-made disasters (e.g. earthquakes, floods, explosions). This involves preparing for a disaster before it occurs and providing emergency responses, such as evacuation, decontamination and support in rebuilding efforts following a disaster. As noted above, disaster relief is one of the most prevalent internal tasks performed by the armed forces of the countries examined. Like domestic catastrophe response, it often appears as a core military function within national constitutions or key legislation outlining the purpose and scope of the armed forces. This is especially true for the Western

European countries examined. Although examples of disaster relief by the armed forces can be found throughout many of the countries' histories, their involvement in these tasks has increased over the past three decades and greater efforts have been made to harmonize and coordinate the armed forces' response with domestic security institutions and other relevant civilian response agencies.

### Environmental-Assistance-Related tasks

The third umbrella category, environmental assistance, contains environmental protection as the only group of tasks. Although of course similar to disaster-assistance-related tasks in the context of responses to environmental damage, this category is related specifically to environmental protection.

### Cross-Over Tasks

The fourth umbrella category for internal functions of armed forces covers "cross-over" tasks. These tasks are grouped together as they relate directly to all three previous umbrella categories: law enforcement, disaster assistance and environmental assistance. In our research it was often difficult to locate precisely the specific umbrella category that these tasks relate to. Further, certain tasks may be performed in the service of law enforcement while at another point and time – or by another country – they are performed in the service of disaster assistance. Thus it seems appropriate to highlight these cross-over tasks by placing them in a distinct category.

**Search and rescue:** Search and rescue operations are often performed by a nation's



Marco Dominio - www.un.org/en/photo/

Members of the Jordanian battalion of the United Nations Stabilization Mission in Haiti (MINUSTAH) carry children through flood waters after a rescue from an orphanage destroyed by hurricane "Ike". September 7, 2008. Port-au-Prince, Haiti.



armed forces, aimed at “minimizing the loss of life, injury, property damage or loss by rendering aid to persons in distress and property.”<sup>33</sup> While this most commonly covers “humanitarian” actions (e.g. rescuing trapped hikers), it can also relate to law enforcement or armed engagements, such as hostage rescue.

**Training:** Training refers to the training provided to law enforcement agents in various relevant tactics and strategies, including use of technology, disruption and use of force. Although it is probable that more than ten of the countries reviewed use their armed forces for training domestic security institutions and government agencies, explicit evidence documenting this role for the remaining five countries was not identified.

**Monitoring:** Monitoring includes air and satellite operations related to national defense, disaster preparation, law enforcement and intelligence gathering. In addition, monitoring tasks overlap closely with border control, drug enforcement, counterterrorism, disaster relief and preparedness, and environmental protection.

**Equipment and facility provision:** The provision of equipment and facilities is documented across all the countries examined. It refers to the delivery, lease or operation of technological aid, including vessels, aircraft and facilities for use by law enforcement or other agencies. This represents one of the most common forms of assistance, especially given restrictions on direct involvement in law enforcement.

**Miscellaneous maritime activities:** In a number of countries the armed forces perform a range of maritime activities, mainly relating to safety (reducing deaths, injuries and property damage), mobility (facilitating commerce and eliminating interruption of passageways)

and certain security elements, such as preventing illegal fishing. Other maritime activities, such as drug enforcement and environmental protection, can be found in specified categories.

**Scientific research:** The armed forces provide a range of scientific and engineering research and development activities, including space research and technology development, cartography and civil engineering projects, such as construction of levees and dams. This group of tasks is one of the more traditional and most consistent internal roles of the armed forces among many of the countries examined.

### Miscellaneous Community Assistance

The category of community-assistance-related tasks is the fifth and final identified internal role of the armed forces. Documentation was located among all countries surveyed, and it remains one of the oldest and most consistent internal roles of the armed forces. Community assistance tasks range from harvesting crops to minor community construction projects and providing color guards for local events, as well as youth outreach and education.

*the use of the armed forces for internal purposes should only be a measure of last resort – and then only in response to exceptional or emergency situations.*

### Widely Shared Reasons Behind the Armed Forces’ Engagement in Internal Roles

The first driving factor behind these engagements is the demand to assist the delivery of services normally provided by civilian public services and government agencies, which are

temporarily unable to do so effectively or adequately. To be sure, across the board the use of the armed forces for internal purposes should only be a measure of last resort – and then only in response to exceptional or emergency situations. Thus although the internal roles and tasks identified above have become increasingly prevalent and diverse across various countries, for the most part they are not conceived as or intended to be central, daily tasks and responsibilities of the armed forces. Instead, civilian domestic security providers are designed to provide a first response and handle the majority of these incidents. Calling on the assistance of the armed forces is considered a measure of last resort, following a request of civilian authorities. Even in the case of maintaining public order or disaster assistance, which may be inscribed in law as a core function of the armed forces, the military becomes involved only when civilian security providers are deemed unable to respond adequately. Likewise, in roles that now have become a regular or “permanent” fixture, such as France’s internal deployment of its military under Operation Vigipirate, authorization was initially considered in response to exceptional needs and circumstances that surpassed the capabilities and resources of the gendarmerie and police.

*armed forces are structured to provide defense against existential threats to the state and nation*

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The second driving factor is the armed forces’ comparative advantage in terms of possession of the proper equipment, skills, experience and manpower, as well as unhindered

territorial access to all parts of the country. Overwhelmingly, military capacities and resources surpass those of civilian domestic security providers, as the armed forces are structured to provide defense against existential threats to the state and nation, including those that exceed traditionally imagined internal threats. As such, they often maintain and develop skills, training, experience and resources beyond the normal reach of civilian security providers. Certainly, this is relative and varies in each case study, especially considering the vast differences in security and military budgets: in 2011 the United States, for example, spent 4.7 percent of its GDP (approximately \$709 billion) on the military, while Austria spent 0.9 percent of its GDP (approximately \$3.7 billion) for the same purposes.<sup>34</sup> In regard to equipment and resources, this includes access to everything from satellites to icebreakers, submarines and airlift fleets, as well as financial resources and readily available manpower. Increasingly, however, armed forces have transferred tactical equipment to civilian security forces, ranging from assault rifles to armored personnel carriers to attire. Nonetheless, the combination of resources, skills and experience suggests that most militaries have a comparative advantage over civilian domestic security providers in these areas, particularly in response to large-scale crises, such as disasters, search and rescue, or counterterrorism.

A third driving factor is the ability of the armed forces to serve as a national unifying mechanism that reaches across all communities and classes of society, and all regions of the country, which allows it to impart in citizens a sense of national conscience and patriotism, especially among the youth. This is at times disputed by opponents of military

engagement (or proponents of alternative state security providers, such as home or national guards) based on the argument that civilian domestic security providers, such as the police, typically are from the cities, states, provinces or regions in which they are deployed. On the other hand, in various moments of perceived crisis, such as during a firefighter strike in the UK, a mine explosion in Spain or flooding in Austria, militaries are often considered to be imbued with a sense of patriotism and unity, possibly unlike their civilian counterparts. Especially in countries with national conscription, the members of the armed forces include individuals from across the country and service may be viewed as a nationally shared sacrifice and responsibility. Thus the popular support that many militaries receive within consolidated Western democracies makes them favorably situated to engage in internal roles, especially at times of crisis or emergency.<sup>35</sup>

### Potential Hazards and Opportunities of Armed Forces' Involvement in Internal Roles and Tasks

The 15-country mapping exercise underlying this article revealed a number of hazards and opportunities related to the armed forces' involvement in internal roles and tasks. While all of these may not yet have empirical documentation, they stand as potential prognoses and forecasts that should be taken into consideration when carrying out further analysis of the contemporary evolution of armed forces' relationship to internal roles and tasks.

#### Hazards

Hazards of granting the armed forces a more prominent internal role may include fear of losing civilian control over the forces, and the military establishment's potential assertion of

a greater role and influence in society and politics, thus eroding the principle of separating civilian and military authority.<sup>36</sup> There is also fear about creeping militarization of civilian technical tasks, civilian partners in subsidiary missions and the population overall, and the militarization of genuine policing tasks of the justice system and penal institutions. Finally,

*the popular support that many militaries receive within consolidated Western democracies makes them favorably situated to engage in internal roles, especially at times of crisis or emergency.*

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there are concerns about potential misconduct and abuse by the armed forces due to improper training for internal deployment and inadequate understanding of applicable civil and criminal law and procedures. On the part of the armed forces, inadequate special training on internal roles does little to address the potential lack of local understanding and sensitivities required to respond effectively to local crises or needs. Finally, investing in the armed forces' dual internal and external roles might happen at the expense of public finances and adequate personnel levels among civilian institutions.

Like expanding the armed forces' peacekeeping and other international roles, strengthening their domestic footprint also raises the risk of eroding preparedness for the core functions of national defense and war-fighting abilities.<sup>37</sup>

#### Opportunities

In contrast, a number of opportunities may arise from expansion of the armed forces' internal roles and tasks. They include the

provision of important peacetime contributions to the safety and security of society, and the ability to resolve national crises (e.g. natural disasters or widespread civil disturbances) that could otherwise not be resolved with civil means and instruments alone. It allows the deterrence of non-state armed challengers to domestic and regional security and stability through the maintenance of an independent domestic capacity to respond to threats. Particularly when circumstances necessitate heavy weaponry or specialized technology, utilizing the armed forces to deliver these could help prevent heightened militarization of regular domestic security forces and trigger greater public and legal scrutiny of their use. Finally, as an organizational interest, the addition of internal roles and tasks may develop new areas of expertise and (budgetary) relevance of armed forces at a time when traditional external military threats are considered to be low.

*All of the potential hazards of entrusting the armed forces with internal roles and tasks expressed in the established democracies, boosting security sectors that are subject to reasonably solid good governance principles, are exponentially more critical in countries emerging from armed violence or passing through significant political, social and economic transition processes.*

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### Lessons for Building Partner Capacity

Which lessons can be drawn for external actors' efforts to assist their partners in the South to build stable, robust and legitimate states, in the spirit of "building partner capacity?" Internal roles and tasks of the armed forces can consist of very constructive

contributions, yet only if they are carried out in supporting, subsidiary assistance to civilian actors. Particularly in states where society's experience with the armed forces has been one characterized by oppression, human rights violations and the excessive use of force, allowing the armed forces to perform internal roles has to be approached with much sensitivity, including public involvement, as well as in the context of extensive security sector reform programs. Moreover, the performance of internal roles – along with participation in international peace support operations under the aegis of the UN, regional organizations or military alliances – requires special skills that need to be developed as part of regular or specialized training.

Moreover, it is crucial that such internal roles are preceded by security sector reform activities that deserve the name "SSR" and thus include improved provisions for government and public oversight and management of the armed forces as well as all other security institutions. While "it is crucial but not sufficient that the security forces perform their statutory functions efficiently and effectively, they must also conform to principles of good governance, democratic norms, the rule of law and human rights. Consequently, reforms aimed solely at modernizing and professionalizing the security forces and thereby increasing their capacity without ensuring their democratic accountability are not consistent with the SSR concept."<sup>38</sup> It would be irresponsible and dangerous to empower the armed forces to carry out internal roles outside a solid and functional framework of democratic control over the armed forces, embedded in and guided by principles of good security sector governance and thus built on the primacies of the rule of law, accountability and transparency.

All of the potential hazards of entrusting the armed forces with internal roles and tasks expressed in the established democracies, boosting security sectors that are subject to reasonably solid good governance principles, are exponentially more critical in countries emerging from armed violence or passing through significant political, social and economic transition processes. As mentioned earlier in this article, these potential hazards include, among others: losing civilian control over the armed forces; the military establishment's potential assertion of a greater role and influence in society and politics; creeping militarization of civilian technical tasks, civilian partners in subsidiary missions and the population overall; militarization of genuine policing tasks, of the justice system and penal institutions; the armed forces' potential lack of local understanding and sensitivity required to respond effectively to local crises or needs; potential loss of public finances and personnel among civilian institutions; and eroding preparedness for core functions of national defense and war-fighting abilities as a direct result of strengthening their domestic footprint and capacities.

External actors should promote (increasing) internal roles of the armed forces only if updated national security policies and strategies are in place; if SSR programs are in place and are making solid progress towards establishing the necessary conditions for good security sector governance; and, if necessary, DDR (disarmament, demobilization and reintegration) is carried out successfully and effectively.

### Conclusion

Useful lessons can be learned from countries where the armed forces, other security institutions, the state and society had to adapt to new security challenges. In order to address new

security roles – or in order to secure new security responsibilities in the absence of traditional roles – new competencies have to be developed, while others have to be dropped. Particularly in such evolving contexts, the armed forces and other security institutions have to embrace new “non-traditional” roles while maintaining a sensible level of capacity and preparedness to face “traditional” threats. Defense reform programs, for instance, focusing on the armed forces and ideally pursued in the context of larger security sector reform programs, are ultimately driven by such political and societal changes, conditioned by evolving internal and external security environments. In established as well as transforming security sectors (and in preparation for or during reform processes) it is absolutely crucial that additional roles for the armed forces are accommodated in terms of accountability (such as civilian oversight) and internal command structures – or otherwise new internal roles in particular should not be introduced.

*the armed forces and other security institutions have to embrace new “non-traditional” roles while maintaining a sensible level of capacity and preparedness to face “traditional” threats.*

The armed forces surveyed for this article assist in internal security provision as a resource of last resort in circumstances that require efforts to respond to exceptional situations. These include natural and humanitarian catastrophes and other urgencies that exceed the capacity of civilian and hybrid security institutions. In addition, subsidiary operations under the command and control of

civilian agencies are designed to enhance the capacity of civilian security providers in such situations.

For the countries reviewed in this article – with the exception of terrorist activities – the core function of national defense has lost significance. The risk of external military aggression – or internal armed conflict – is diminishing in the perception of the population and their political representatives. The latter are therefore, for the most part, less willing to spend public resources to prepare for seemingly remote threats. These views might be unique to societies that have, at least since the end of the Second World War, experienced an unprecedented level of peace and stability at home and in their immediate neighborhood. This remains true even though this sense of security rested on very unstable grounds during the Cold War and was challenged in different ways during the explosion of ethnic violence in the wake of the Yugoslav successor wars in their immediate backyard – and more recently across the Mediterranean Sea and throughout Northern Africa.

Military engagements in places such as Afghanistan, Iraq or Libya – and calls for military support to political protest movements against authoritarian leaders throughout the Arab world and elsewhere – have reignited sensitivities about “traditional” combat requirements. In addition, the crises, human suffering, economic damage and political instability created by natural disasters point to an increasing demand for the involvement of the armed forces in facilitating immediate responses to such crises. Modern armed forces are increasingly called upon to expand dual- or multiple-role capacities that allow them to address both “traditional” and “non-traditional” threats – both at home and when

advising or helping partner nations in the global South that are in the process of redefining the place of their security sector in society and are defining new roles for the armed forces.

However, changes in the armed forces’ *raison d’être* (and the division of roles and tasks among all security institutions within society) need to be made very carefully and in accordance with established national law and custom. This should always follow a thorough assessment of potentially emerging threat scenarios. The threats for which security sectors were put in place, trained and equipped might be changing. This applies to countries in the North as in the South. Our mapping has shown that changing threat and risk contexts in the surveyed countries have in fact triggered shifts in the roles of their armed forces. Those threats and risks include various climate change scenarios and their impact on already fragile regions and countries, especially in the form of potential increases in large-scale natural disasters; South-North, South-South and rural-urban migration due to instability, climate change and resulting changes to people’s habitats and livelihoods; catastrophes resulting from a combination of natural and man-made disasters, such as the recent earthquake, tsunami and nuclear catastrophe in Japan; continuing threats from international terrorist networks; cyber insecurity; evolving terrorist threats; and political revolutions such as those most recently experienced in the Middle East and North Africa.

However, caution is called for when promoting or preparing for such expanded internal roles in countries that have recently emerged from or are in the process of undergoing substantial political, social and economic transformation. Unless good governance

principles guide the security sector, in particular the armed forces in their search for new roles in a changing security context, new roles, particularly internal ones, should not be developed or supported by external partners willing to build capacity without simultaneously pushing for and ensuring effective democratic oversight. **PRISM**

## NOTES

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<sup>1</sup> Albrecht Schnabel and Marc Krupanski, *Mapping Evolving Internal Roles of the Armed Forces*, SSR Paper No. 7 (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2012).

<sup>2</sup> Timothy Edmunds, "What are armed forces for? The changing nature of military roles in Europe," *International Affairs* 82, no. 6 (2006), 1059.

<sup>3</sup> Schnabel and Krupanski, *Mapping Evolving Internal Roles of the Armed Forces*.

<sup>4</sup> James Q. Roberts, "Building the Capabilities and Capacity of Partners: Is This Defense Business?," *PRISM* 4, no. 2 (2013), 67-75.

<sup>5</sup> David Bayley, "The Police and Political Development in Europe," in Charles Tilly, ed., *The Formation of National States in Western Europe* (Princeton: Princeton University Press, 1975); Michael Broers, "Notabili, Gendarmes and the State: Preserving Order and the Origins of the Centralized State in the Italian Departments of the First Empire," in *Le pénal dans tous ses Etats* (Bruxelles: Facultés universitaires Saint-Louis, 1997), 179-190; Charles Tilly, "War Making and State Making as Organized Crime," in Peter Evans, Dietrich Rueschemeyer and Theda Skocpol, eds., *Bringing the State Back In* (Cambridge: Cambridge University Press, 1985), 169-191.

<sup>6</sup> Keith Krause, *Towards a Practical Human Security Agenda*, DCAF Policy Paper No. 26 (Geneva: DCAF, 2007), 9.

<sup>7</sup> Tilly, "War Making and State Making as Organized Crime."

<sup>8</sup> Krause, *Towards a Practical Human Security Agenda*, 10.

<sup>9</sup> Albrecht Schnabel and Danail Hristov, "Conceptualising Non-traditional Roles and Tasks of Armed Forces," *S+F: Sicherheit und Frieden / Security and Peace* 28, no. 2 (2010), 74-75

<sup>10</sup> Barry Buzan, "Rethinking Security after the Cold War", *Cooperation and Conflict* 32, no. 1 (1997), 6.

<sup>11</sup> Edmunds, "What are armed forces for? The changing nature of military roles in Europe," 1062.

<sup>12</sup> Samuel Huntington, "New Contingencies, Old Roles," *Joint Force Quarterly* (Spring 2003), 38-43.

<sup>13</sup> Radley Balko, *Rise of the Warrior Cop: The Militarization of America's Police Forces* (New York: Public Affairs, 2013).

<sup>14</sup> Edmunds, "What are armed forces for? The changing nature of military roles in Europe," 1063.

<sup>15</sup> *Ibid.*, 1064.

<sup>16</sup> Secretary of State for Defence Geoff Hoon, *Delivering Security in a Changing World: Defence White Paper* (London: UK Ministry of Defence, 2003), 3.

<sup>17</sup> *Ibid.*, 6-7.

<sup>18</sup> Hans Born and Aidan Wills, "The Roles of Armed Forces in Council of Europe Member States," European Commission for Democracy Through Law (Venice Commission), Study on Democratic Control of Armed Forces, Study No. 389, CDL-DEM(2007)009 (Strasbourg: Council of Europe, September 26, 2007).

<sup>19</sup> Schnabel and Hristov, *Conceptualising Non-traditional Roles and Tasks of Armed Forces*, 73-80.

<sup>20</sup> This section draws on the empirical findings of the 15-country review and mapping exercise carried out for this article. The countries covered in that study are the Western European established democracies of Austria, Belgium, Denmark, Finland, France, Germany, Italy, Luxembourg, the Netherlands, Norway, Spain, Sweden and the United Kingdom, along with the United States and Canada. For more details, see Schnabel and Krupanski, *Mapping Evolving Internal Roles*.

<sup>21</sup> Royal Decree of 6 July 1994 on Operational Engagement of Military Forces and the Law of 20 May 1994, as cited in Pierre d'Argent, "Military Law in Belgium," in Georg Nolte, ed., *European Military Law Systems* (Berlin: De Gruyter Recht, 2003), 191-193.

<sup>22</sup> See Ordinance No. 59-147 from January 1959; 1983 Decree No. 83-321 on the Prerogatives of Prefects in Terms of Non-Military Defence; Ministerial Instruction from 7 February establishing the SGDN; Ordinance 60-372 from 15 April 1960 on the State of Urgency; Inter-Ministerial Instruction No. 500/SGDN/MTS/OTP of 9 May 1995 on the Participation of the Military in Maintaining Public Order, as cited in Jörg Gerkrath, "Military Law in France," in Georg Nolte, ed., *op.cit.*, 285-290.

<sup>23</sup> See Royal Decree 1125/1976, Organic Law 4/1981 on the Declaration of Emergency, Law 2/1985 of 21 January 1985 on Civil Protection, cited in Kim Eduard Lioe, *Armed Forces in Law Enforcement Operations? The German and European Perspectives* (Heidelberg: Springer, 2011), 108.

<sup>24</sup> See Emergency Powers Act 1920 and Emergency Powers Act 1964.

<sup>25</sup> See Part XI of the National Defence Act (R.S. 1985, c. N-5), the Fisheries Act (R.S.C., 1985, c. F-14), and the Queen's Regulations and Orders (QR&Os).

<sup>26</sup> See Statute of July 11, 1978, No. 382; Decree of November 28, 1997, No. 464, Art. 5(1); Law No. 331/2000 Article 1; and Law of February 24, 1992, No. 225.

<sup>27</sup> See Basic Law, Articles 87, 91, 35 paras. 1 and 2, Article 87a, para. 2.

<sup>28</sup> Schnabel and Krupanski, *Mapping Evolving Internal Roles*, 17-40.

<sup>29</sup> "Building and Personal Security", *The Washington Post*, <http://projects.washingtonpost.com/top-secret-america/functions/security>.

<sup>30</sup> Benjamin S. Buckland, Fred Schreier and Theodor H. Winkler, *Democratic Governance Challenges of Cyber Security*, DCAF Horizon 2015 Working Paper No. 1 (Geneva: DCAF, 2009); Fred Schreier, Barbara Weekes and Theodor H. Winkler, *Cyber Security: The Road Ahead*, DCAF Horizon 2015 Working Paper No. 4 (Geneva: DCAF, 2011); Fred Schreier, *On Cyberwarfare*, DCAF Horizon 2015 Working Paper No. 7 (Geneva: DCAF, 2012).

<sup>31</sup> "Disaster Preparedness", *The Washington Post*, <http://projects.washingtonpost.com/top-secret-america/functions/disaster-preparation/>.

<sup>32</sup> Spencer S. Hsu, "Agencies Clash on Military's Border Role," *The Washington Post*, June 28, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/06/27/AR2009062700956.html>; and Patrick Martin, "Pentagon to Deploy 20,000 Troops on Domestic 'Anti-Terror' Mission," *The Wall Street Journal*, December 2, 2008.

<sup>33</sup> "The SAR Mission", United States Coast Guard, available at <http://www.uscg.mil/hq/cg5/cg534/>.

<sup>34</sup> The World Bank, "Military expenditure (% of GDP)", available at <http://data.worldbank.org/indicator/MS.MIL.XPND.GD.ZS>.

<sup>35</sup> Please see the larger study for a number of factors that have been identified as explaining variation of roles and tasks among the case studies' armed forces. These factors include: Type of political order or system; presence or absence of a constitution; extent of constitutional restrictions; historical context; military history; presence of gendarmeries or home guards; presence of services within the armed forces with explicit internal roles; external determinants; recent or ongoing internal conflicts; membership in military alliances or regional bodies. The study has also identified three common traits that have emerge from the mapping exercise: First, in the selected case studies the armed forces are always secondary security providers, called upon under exceptional circumstances, when police or gendarmeries cannot alone meet a particular security



challenge; second, in all cases the armed forces provide assistance in cases of natural disaster, which is largely undisputed and accepted across broad political spectrums among the political elites and the broader public; and third, there is a trend across countries of an increased domestic counterterrorism role for the armed forces.

<sup>36</sup> Keith Krause, *Towards a Practical Human Security Agenda* 11-15; and Forster, 160.

<sup>37</sup> According to Huntington, for instance, additional tasks for the military should not impair the army's main mission, which is warfare. See Huntington, "New Contingencies, Old Roles."

<sup>38</sup> Fairlie Chappuis and Heiner Hänggi, "The Interplay between Security and Legitimacy: Security Sector Reform and State-Building," in Julia Raue and Patrick Sutter, eds., *Facets and Practices of State-Building* (Leiden/Boston: Martinus Nijhoff Publishers, 2009), 45.

## Photos

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Victory monument which was set up after the Sri Lankan government military forces' victory over LTTE in the Eastern theatre. This is located at the Karadiyanaru Junction.

# Confronting the Threat of Corruption and Organized Crime in Afghanistan: Implications for Future Armed Conflict

BY TIM SULLIVAN AND CARL FORSBERG

As the conflict in Afghanistan has evolved over the last decade, it has become apparent that of the many challenges the country and its international partners face, few are as complex, pervasive, and threatening as corruption and organized crime. Together, corruption and organized crime have undermined efforts to build Afghan institutions, consolidate security gains, achieve political progress, encourage economic growth, and set conditions for enduring stability. These problems, however, are not unique to the war in Afghanistan. Conflicts elsewhere in recent decades have revealed that states engaged in or emerging from insurgencies and civil wars—especially those in which institutions are weak, rule of law is minimal, and substantial international resources have been injected with inadequate oversight—are particularly susceptible to the proliferation of corruption and organized crime.

The Afghan experience is rich with lessons for the American military and foreign policy establishment as it considers the likely nature of future armed conflict. In the years ahead, the U.S. may again be compelled to assist or intervene in weak states experiencing protracted instability or rebuilding after years of violence. In such environments—as in Afghanistan—there is a pressing requirement not only for seamless integration of civilian and military efforts to establish security, enable law enforcement organizations, and promote the rule of law, but also for full coordination in the pursuit of transparency and accountability within the critical institutions of

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the state in, or emerging from, conflict. All of these efforts, meanwhile, must be grounded in a thorough understanding of that state's politics, and tailored to generate the necessary will among its key leaders to undertake complementary reforms.

This article outlines the nature and origins of the current problems of corruption and organized crime in Afghanistan, as well as the effect they have had on the mission of the International Security Assistance Force (ISAF). It then discusses the measures ISAF has taken to address these threats. It concludes with a review of the lessons and implications of the Afghan counter-corruption experience for future armed conflict and stability operations.

### **The Nature and Extent of Corruption and Organized Crime in Afghanistan**

The prevailing level of corruption across Afghanistan's public and private sectors presents a grave threat to United States interests in the region and the viability of the Afghan state. Corruption undermines the legitimacy, effectiveness, and cohesion of the Afghan government; it fuels discontent among the population, generating active and passive support for the insurgency; and it prevents the growth of a strong licit economy, thus perpetuating Afghan dependence on international assistance. Corruption and organized crime directly compromise the United States' fundamental interests in Afghanistan and the surrounding region. Long-term U.S. objectives—including the elimination and prevention of transnational terrorist safe-havens—remain dependent upon strengthening the Afghan state and hardening its institutions against the resurgence of the Taliban, the onset of further civil conflict, and the interference of the country's neighbors.

Afghan leaders increasingly acknowledge the scale of the problem and the threat it presents. Although President Karzai has often tolerated corruption as part of a complex political strategy, he has vocalized growing frustration with the problem. "The permeation of corruption and a culture of impunity have undermined the development of institutions in terms of strength and credibility," President Karzai warned at the December 2011 Bonn Conference in Germany.<sup>1</sup> Corruption in Afghanistan is not an intrinsic cultural phenomenon. It exists today at unprecedented levels as a result of the events of the past thirty years (and particularly the decade of Taliban rule), including chronically weak governance and rule of law institutions, social structures fractured by sustained conflict, and in more recent years, a fragile war economy sustained by international aid, security assistance, and the narcotics trade. "Our biggest weakness," President Karzai has explained, "was that the administration had almost been shattered during thirty years of war."<sup>2</sup>

The most serious and destabilizing forms of corruption in Afghanistan are carried out systematically by criminal networks that operate with political protection. "In this government," explained Afghan National Security Advisor Ranganatha Spanta in December 2010, "we have mafia networks." The networks "begin with the financial banking system, with corruption networks, with reconstruction and security firms and also with drugs and the Taliban; they are in Parliament and they are in government."<sup>3</sup> These criminal patronage networks (CPNs) are engaged in the capture and subversion of critical state functions and institutions. They divert customs revenue at Afghanistan's international airports and border crossing points, steal international security and

development assistance disbursed to the Afghan government, and abuse public and private financial institutions at the expense of Afghanistan’s economic stability. The networks also profit immensely from facilitating, protecting, and participating in the narcotics trade.

CPNs currently operate with impunity—consistently avoiding meaningful investigations and prosecution—by exerting influence within law enforcement, investigative, and judicial institutions across the Afghan government. “Politics is constraining [our] ability to prosecute high-level corruption cases,” noted Afghan Attorney General Mohammad Ishaq Aloko, whose office is particularly vulnerable to political interference and manipulation. The internal accountability and oversight

mechanisms of many critical Afghan institutions are similarly subject to intimidation and coercion.

The scale of corruption in Afghanistan is closely linked to the political settlement that has occurred in the country as CPNs, which are often regionally and ethnically aligned, pursue political as well as criminal agendas. The networks with the greatest degree of influence in the Afghan government and its critical institutions have their roots in the mujahideen commander’s networks and political parties that emerged in the conflicts of the 1980s and 1990s—the Soviet-Afghan war, the subsequent civil war, and the anti-Taliban resistance. With the Bonn Agreement in 2001, many of the figures in these networks acquired senior positions within Afghanistan’s newly formed national government. These figures, in turn,



Toad Hufman

The ‘Go Vote’ posters have a distinct message -- armed guards are prominent on either side and in this case there’s a real one at the base.

distributed power among their allies and affiliates, and the purchase of government posts became widespread. With this commoditization of political power came the development within key ministries of cohesive patronage networks, elements of which became engaged in illicit activities. Today, these networks dominate Afghanistan's political space. They are stakeholders in the state's weakness, as the continued fragility of Afghanistan's institutions provides them freedom of action and impunity.

Apart from weakening the country's critical institutions, corruption and organized crime have played a role in fomenting instability and insurgent violence. Analysts have consistently identified causal links between predatory governance and the expansion of insurgency in Afghanistan, noting, for

example, the connection between the Taliban's reemergence after 2003 and the abuse of power by government officials, security forces, and their networks of affiliates.<sup>4</sup> More recently, by undermining popular confidence in the legitimacy, effectiveness, and long-term durability of the government, corruption has discouraged the population from actively mobilizing against the insurgency, thus lending the Taliban passive support. Additionally, the short-term maximization-of-gains mentality among the country's criminal patronage networks—which is driven both by a lack of faith in Afghanistan's future and the anticipation, despite reassurances, of an impending, large-scale international disengagement from the country—has heightened ethnic and factional tensions, accelerated the networks' efforts to



S Staff Sgt. Joseph Swafford, U.S. Air Force

U.S. Army Capt. Justin Quisenberry, the commander of Charlie Company, 3<sup>rd</sup> Battalion, 187<sup>th</sup> Infantry Regiment, 101<sup>st</sup> Airborne Division, conducts a joint patrol with Afghan National Security Forces in Andar district, Ghazni province, Afghanistan, on Jan. 7, 2011.

consolidate power, and set conditions for continued violence.

### The Limits of Capacity-Building

Over the last ten years, the U.S., ISAF, and the international community have together pursued a variety of capacity-building and technical assistance initiatives in Afghanistan, many of which have sought to reduce opportunities for corruption and strengthen Afghan institutions against its corrosive effects. These efforts have included training and advisory programs for Afghanistan's elite counternarcotics and investigative units, along with initiatives to develop Afghan judicial and rule of law institutions at the national, provincial, and district levels. Various international development agencies have sponsored technical assistance programs in ministries across the government, and considerable resources and attention have been dedicated to the mammoth task of recruiting, training, equipping, and professionalizing the Afghan National Security Forces.

While significant progress has been achieved in each of these areas, corruption and organized crime nevertheless remain common within Afghan institutions. A fundamental obstacle to the success of capacity-building initiatives has been a frequent failure to acknowledge the inherently political nature of institutional reform. Portions of Afghan ministries function not as professional bureaucracies focused on public administration, but as vertically-integrated patronage networks, elements of which engage in and facilitate a range of illicit activities. Technical assistance and capacity-building alone, absent measures to counter the influence of CPNs within state institutions, can do little to prevent the systemic diversion of international resources, the limited and selective provision of services, and

the dysfunction now evident within portions of Afghanistan's institutions. Criminal patronage networks (CPN) within the Afghan government have likewise thwarted many of the structural and administrative anti-corruption reforms that the international community has advocated since the early years of the conflict, including merit-based hiring, pay and grade reform, and asset declaration policies for senior government officials. Moreover, CPNs have actively suppressed or sought to co-opt the junior, reform-minded officials who have received training from the U.S. and others in recent years, as well as the experienced – but politically vulnerable – technocrats operating within the Afghan government's bureaucracies.

### CJIATF-Shafafiyat: Responding to the Strategic Threat of Corruption

In the summer of 2010, ISAF created the Combined Joint Interagency Task Force–Shafafiyat (“transparency” in Dari and Pashto) in coordination with the international community, to support the Afghan government, foster a common understanding of the corruption problem, plan and implement ISAF anti-corruption efforts, and integrate the coalition's counter-corruption activities with those of key interagency and international partners. From the outset, the task force engaged regularly with leaders from Afghan civil society and officials across the Afghan government to frame the problem of corruption from the perspective of those who had experienced it, and to develop a shared understanding as a basis for joint action and reform. In partnership with senior Afghan leaders, Shafafiyat (which evolved into the Combined Joint Interagency Task Force –Afghanistan, or CJIATF-A, in late 2012) established a variety of structured forums in which ISAF, U.S. interagency

partners, and international organizations could exchange information, gain insights, and work cooperatively with Afghan officials to develop and implement concrete anti-corruption plans and measure progress.

Since the task force initiated its work, Afghan officials have increasingly recognized and acknowledged that the scale of corruption within their country's critical institutions is compromising the security, stability, economic health, and cohesion of the state. Afghan leaders also express concerns about their country's international reputation and standing, acknowledging that corruption, organized crime, and the narcotics trade jeopardize the credibility of Afghanistan's sovereignty. Many leaders remain deterred, however, by what they perceive as the near-term political risks of acting against powerful criminal networks. In its

coordination with its Afghan and international partners, Shafafiyat therefore sought consistently to illustrate the comparative long-term risks of *inaction*, so as to persuade senior leaders that it is in their ultimate interests—and the interest of the Afghan state and its people—to address the problem with a degree of urgency.

In partnership with organizations across ISAF, the U.S. interagency, the Afghan government, and the international community, Shafafiyat prioritized efforts in areas in which corruption and organized crime present the greatest threat to the coalition's mission and the viability of the Afghan state.

### Security Ministries and the ANSF

The problem of corruption is particularly dangerous within the security ministries and the



PFC Shaquille Stokes

The first sergeant of the Afghan National Army (ANA) 1<sup>st</sup> Special Operations Kandak examines illegal drugs found during the search of a compound Nov. 11, 2013, in Achin district, Nangarhar province Afghanistan.



Afghan National Security Forces (ANSF), as it threatens the combat effectiveness and cohesion of the army and police. ISAF, through the efforts of the NATO Training Mission-Afghanistan (NTM-A), supported the development of professional Afghan security forces, managed by transparent and accountable security ministries. Shafafiyat and NTM-A worked closely with senior officials from the Ministry of Defense (MOD) and Ministry of Interior (MOI) in a sustained manner through several joint, Afghan-led, working groups and commissions to develop detailed anti-corruption recommendations and implementation plans, including the creation of insulated investigative, oversight, and adjudicative bodies within the security ministries so as to ensure that the ANSF can enforce internal accountability while avoiding political interference and intimidation. ISAF also worked to identify areas in which security assistance is being diverted within the ANSF for criminal ends, such that it is a net dis-benefit to the coalition's mission.

### Rule of Law and the Judicial Sector

Across Afghanistan's provinces, the erosion of the rule of law has not only empowered elements of the insurgency—which have capitalized on the population's demand for swift and impartial dispute resolution—but has allowed power to remain in the hands of local and regional powerbrokers, who are involved in a range of predatory, extractive, and illicit activities.<sup>5</sup> ISAF and its partners in the U.S. mission in Kabul have supported the development of Afghan law enforcement and judicial institutions that are responsive to the needs of the population and reliably enforce the rule of law. This effort requires sustained engagement within the Afghan judicial sector, to ensure that investigators, prosecutors, and judges are

allowed to operate free from bribery, intimidation, and political interference. ISAF officials have also worked directly with senior, national-level Afghan leaders in an effort to lift protection from criminals, encourage prosecutions, and prevent the reinstatement elsewhere in the government of officials removed for corruption.

### Borders and Airports

The criminal capture of state functions at Afghanistan's border crossing points, international airports, and inland customs depots robs the state of revenue, inhibits economic growth, impedes capacity-development efforts, and leaves the country vulnerable to transnational threats. The World Bank ranks Afghanistan's borders as the fourth hardest in the world to cross for the purposes of trade, creating a significant obstacle to the country's regional economic integration.<sup>6</sup> Corruption and organized crime at Afghanistan's critical ports of entry also directly undermine the state's security and sovereignty by enabling the trafficking of narcotics, precursor chemicals, and weapons, while facilitating insurgent freedom of movement. The civil-military team in Kabul and senior Afghan officials have committed to work together to expose and act against the criminal networks operating at these borders, airports, and customs depots, so as to enable the Afghan state to maintain credible sovereignty and achieve enduring security, while collecting revenue sufficient to expand its licit economy and reduce its dependence on international assistance.

### Counternarcotics and Transnational Crime

As the mutually-reinforcing relationship between the Afghan narcotics trade,

corruption, and the insurgency became increasingly apparent, ISAF and its partners in the international law enforcement community began targeting the intersection of these convergent threats. Likewise, as ISAF and its inter-agency and international partners in Kabul have expanded their visibility on the flows of money, narcotics, precursor chemicals, weapons, and other resources across Afghanistan's criminal networks, it became clear that there is a significant transnational dimension to corruption and organized crime in Afghanistan. As the U.S. Strategy to Combat Transnational Organized Crime explains, "nowhere is the convergence of transnational threats more apparent than in Afghanistan and Southwest Asia."<sup>7</sup> The application of international law enforcement actions and targeted financial

sanctions is therefore a critical means of degrading Afghanistan's criminal networks, while creating a deterrent effect currently not achieved by the Afghan judicial system.

### Contracting and Procurement

Task Force 2010, a component of U.S. Forces-Afghanistan (USFOR-A) was formed simultaneously with CJIAF-Shafafiyat in the summer of 2010 to coordinate, expand, and apply greater oversight and management of U.S. contracting, acquisition, and procurement processes, so as to deny criminal patronage networks and insurgents access to U.S. funds and materiel. Having acknowledged that international spending has the potential to directly impact campaign objectives, U.S. forces are increasingly integrating procurement and



Gunney Sgt. Bryce Pifer

U.S. Marine Corps Lance Cpl. Anthony Duncan picks a poppy flower while returning from a security patrol through a poppy field in Helmand province's Green Zone. Elements of 26<sup>th</sup> Marine Expeditionary Unit deployed to Afghanistan to provide regional security in Helmand province in support of the International Security Assistance Force.

contracting considerations into planning and operations at all levels. Task Force 2010 and others have recognized that high-value construction contracts in insecure areas are the most difficult to oversee and administer, and the task force has prioritized its efforts accordingly. Additional contracting reforms have included the disaggregation of large contracts to encourage more bidders and to deter the emergence of monopolies; the wider advertising of contracts so as to improve Afghan vendors' awareness of and access to the bidding process; and identification of intended subcontractors in the course of bidding. U.S. forces' contracting reform efforts have been coordinated with the Afghan government, as well as with civilian agencies operating in Afghanistan like USAID, which has published its own COIN contracting guidance, similar to that issued by ISAF.

### Looking Ahead: Implications of the Afghan Counter-Corruption Experience for Future Conflict

In anticipation of future missions of similar complexity, it will be essential to ensure that the lessons emerging from the counter-corruption experience in Afghanistan are integrated into U.S. forces' training, doctrine, and leadership development. Although future efforts will demand close civil-military coordination and unity of effort, U.S. and allied forces must be prepared to anticipate and exercise initiative in addressing the problems of corruption and organized crime in counterinsurgency and stabilization environments. The lessons and insights outlined below reflect the expectation that U.S. and allied forces and their interagency partners will, in the years ahead, engage in operations in which corruption and organized crime will serve as drivers of conflict, as

well as impediments to sustainable security, host nation security force development, political progress, and economic growth. These lessons are likewise presented with the understanding that the U.S. and the international community have at times inadvertently contributed to and compounded the problems faced today in Afghanistan with respect to corruption and organized crime—missteps the U.S. and its allies cannot afford to make in future conflicts.

### Lesson 1: Anticipate and Respond Swiftly to Corruption and Organized Crime

In insecure states with underdeveloped institutions and weak rule of law, a massive infusion of international resources disbursed with limited oversight is likely to be accompanied by a surge in corruption and organized crime.<sup>8</sup> International forces and their interagency counterparts prosecuting counterinsurgency or stability operations must anticipate this development and be prepared to put in place, in the earliest stages of their mission, mechanisms by which to mitigate and monitor the problem (by tracking illicit financial flows, for example, and implementing vendor-vetting measures), while at the same time articulating expectations for transparency and accountability among officials in the supported government. Timing, in all these efforts, is critical. It is vital to launch counter-corruption initiatives before criminal networks and patterns of corruption become entrenched, before the population has become disillusioned with its government and international forces, and before the perception has arisen within the host government that impunity for politically-connected criminals will be tolerated. The international community will also maximize its influence if it acts before its will to impose costs for

corruption—whether through conditionality of aid or international law enforcement actions—has been called into question.

### **Lesson 2: Acknowledge the Centrality of Politics**

International forces and their civilian partners must ground all of their efforts in a thorough understanding of the history and politics of the state in which they are engaged. War—whether in the form of a counterinsurgency campaign or post-conflict stability operations—is a fundamentally political endeavor. Corruption in post-conflict states, likewise, is fundamentally a political problem, closely linked to the balances of power among national elites. As a 2010 UNDP study noted, “effectively responding to corruption can be difficult because it nearly always requires taking political, economic, and social power away from those who benefit from the status quo.”<sup>9</sup> With this in mind, international forces must understand the key leaders with whom they engage and partner in the context of their political, social, and cultural networks. The intelligence community has an important role to play in this regard, although additional training for analysts may be required to ensure a proper focus not only on the composition of political networks, but on the historic affiliations, dynamic relationships, and balances of power within them—as well as an understanding of their respective roles in the context of a broader national political settlement. It is also important to be aware that host-nation officials’ interests might not always align fully with those of international forces. Host-nation political actors may in some cases be motivated by narrow agendas driven by their historic, ethnic, and factional affiliations—as well as a desire to maximize their political and

financial positions prior to international forces’ ultimate departure—rather than a shared commitment to satisfy mutual goals. It is clear, therefore, that counter-corruption efforts stand to have the greatest effect when implemented in support of a carefully coordinated political strategy on the part of international forces and their civilian counterparts, designed to marshal military, diplomatic, and economic tools and resources in pursuit of a thorough and clearly articulated set of political objectives.

### **Lesson 3: Guard Against the Criminal Capture of Institutions within the Supported Government**

Attention to the politics of the supported government and early implementation of joint anti-corruption measures are particularly critical for preventing the emergence of what has been called the “political-criminal nexus”—a mutually beneficial relationship of protection and profit between corrupt government officials and criminal networks.<sup>10</sup> If left unchecked, this dynamic has the potential to lead to the criminal capture of critical state functions, whereby the supported government’s institutions become directed toward serving the interests of a narrow political elite and their criminal associates, rather than advancing and protecting broad national interests. In post-conflict states whose governments are the recipients of large sums of international assistance, there is an enormous incentive for criminal networks to infiltrate and co-opt fragile institutions newly flush with resources. The Afghan experience has demonstrated that international technical assistance and professionalization training are necessary, but not sufficient, for girding institutions against criminal infiltration and subversion. Rather than

focusing narrowly on capacity-building, those providing international assistance must become attuned to patterns of criminal activity and work with key leaders in the supported government to develop coherent, broadly acceptable strategies to disrupt criminal networks and sever the relationships between political patrons and their criminal clients.

#### Lesson 4: Understand the Impact of International Spending

The infusion of substantial international resources—whether in the form of development assistance or contracts—without sufficient oversight into a contested or post-conflict state with an underdeveloped economy has the potential to significantly empower some actors

while dramatically disempowering others, thus generating unintended political, social, and security consequences. Development, procurement, and acquisition initiatives thus, as COMISAF's COIN Contracting Guidance suggests, represent operational concerns that must be integrated and aligned with a comprehensive national or coalition political strategy. It will be imperative in future conflicts to implement measures to ensure rigorous vendor-vetting and sustained post-award oversight for large logistics and development contracts—and to pursue full integration across the civilian and military agencies involved, so as to achieve a “common contracting operating picture.” In Afghanistan, it has further been observed that failure to adequately judge local



Soldiers of 1<sup>st</sup> Battalion, 32<sup>nd</sup> Infantry Regiment, intercept illegal timber as it is smuggled through the Narang Valley in Afghanistan's Konar province.

populations' development needs or accurately assess communities' capacity to absorb international aid has generated extreme waste and created opportunities for graft, corruption, and patronage, while preventing the emergence of entrepreneurs.<sup>11</sup> Models of development, focused instead on host nations' nascent small enterprises and business sectors, stand to serve as a check against large scale corruption, while setting the conditions for inclusive, responsive governance of a sort that deters systemic abuse of power.<sup>12</sup>

*international forces can anticipate having significant access, agency, and leverage within the supported government's security sector.*

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#### **Lesson 5: Promote Transparency and Accountability in Security Force Development**

With the expectation that future counterinsurgency and stability operations will be coupled with security force development missions, international forces can anticipate having significant access, agency, and leverage within the supported government's security sector. This access presents a critical opportunity to integrate counter-corruption efforts within training and professionalization initiatives. The development of effective, professional, and accountable security forces is essential, of course, for the transfer of security responsibilities to the host nation – a prerequisite for successful counterinsurgency and stabilization missions. In many developing countries emerging from conflict, however, control of the security ministries and their forces is much sought after among elites and their networks as the political settlement develops.<sup>13</sup> As a

result, security forces can become subject to factionalism, politicization, and corruption. International forces assigned to develop the supported government's security sector must therefore be prepared to apply the same rigor of analysis to understanding the political and factional affiliations of key leaders within the host nation's security forces as those of other national figures, as discussed above. A security force development model focused strictly on capacity-building and professionalization may not be sufficient for ensuring a politically neutral force or for adequately integrating former combatants into new national security structures. As the 2006 Counterinsurgency Field Manual makes clear, "the acceptance of values, such as ethnic equality or the rejection of corruption, may be a better measure of training effectiveness in some COIN situations" than simple "competence in military tasks."<sup>14</sup> In the long-term, of course, there is not a dichotomy between these objectives, as host-nation security forces rife with corruption will suffer significantly reduced operational effectiveness. The Afghanistan experience demonstrated the extent to which corruption consistently undermined a unit's leadership, morale, will to fight, readiness, and logistical sustainability. To the degree that host-nation security forces are seen by the population to be professional and above ethnic, tribal, and political factionalism, they have the potential to lend additional credibility to the supported government, serving as the locus of an emerging sense of national unity.

#### **Lesson 6: Integrate Law Enforcement, Military, and Information Operations**

As the war in Afghanistan has made clear, corruption, organized crime, and insurgency are interconnected problems that cannot be dealt

with in isolation. In states engaged in or emerging from conflict, an effective response to these converging threats requires the integration of law enforcement, military, and information operations at the tactical, operational, and strategic levels, so as to employ the full range of tools available to address these problems. The integration of these capabilities is also essential for exploiting the likely “criminalization” of the insurgency. This dynamic has been seen, to varying degrees, in Colombia, Iraq, and Afghanistan—as insurgent groups that had engaged in illicit activities initially as a means of financing their operations became increasingly profit-focused, at the expense of their original ideological or political aims. International forces and their civilian partners can capitalize on this dynamic not only through information operations—calling attention to the groups’ venality and hypocrisy—but by mobilizing and empowering host-nation law enforcement assets through evidence-based operations against insurgents groups’ criminal activities.<sup>15</sup> Because host-nation law enforcement and judicial institutions often become targets for insurgent attacks, as well as for infiltration and subversion by criminal networks and their affiliates, international forces and their civilian partners must also help insulate and protect these institutions from intimidation and coercion.

**Lesson 7: Identify and Operate Against the Transnational Dimensions of the Problem**

As President Obama’s Strategy to Combat Transnational Organized Crime makes clear, the problem of transnational organized crime can be particularly acute within weak and developing states, where criminal networks “threaten stability and undermine free markets

as they build alliances with political leaders, financial institutions, law enforcement, foreign intelligence, and security agencies.”<sup>16</sup> Transnational criminal organizations, in short, exploit and further destabilize the weak institutions, internal divisions, and permissive security environments of states engaged in or

*criminal networks “threaten stability and undermine free markets as they build alliances with political leaders, financial institutions, law enforcement, foreign intelligence, and security agencies.”*

emerging from conflict. If the Afghan experience and others are a reliable guide, key figures within indigenous criminal networks will also rely upon links to the international financial system to launder their criminal proceeds and maintain licit business interests abroad. In these instances, the U.S. and its allies have a range of tools at their disposal to operate against the transnational dimension of corruption and organized crime, while furthering counterinsurgency and stabilization objectives—by tracking illicit finance, initiating targeted coercive financial actions, pursuing sanctions designations, and identifying opportunities for mutual legal assistance requests. International forces and their civilian partners would benefit in future conflicts from the creation of a central, unified, interagency strategic planning body with the capacity to manage and coordinate the application of these tools and capabilities against transnational networks.

**Lesson 8: Develop a Counter-Corruption Narrative That Resonates With the Population**

Given the extent to which corruption undermines popular confidence in a supported government's effectiveness, legitimacy, and sovereignty, international forces and their civilian partners must find a means of presenting themselves as an honest broker between the population and the state, thereby avoiding perceived complicity in the host government's corruption, even as international forces continue to provide vital assistance to the supported state's leaders and institutions. To do so, it is essential to consistently transmit a message of enduring international commitment at the strategic and tactical levels—commitment not only to ending corruption, but to ensuring durable security and to advancing the interests and aspirations of the population. Without a compelling narrative of commitment, a series of harmful hedging strategies can develop: criminal networks and their patrons will accelerate and expand their illicit activities, driven by a short-term maximization-of-gains mentality that anticipates the eventual departure of international forces and the easy access to international resources that accompanies them.

#### **Lesson 9: Recognize Civil Society as a Force for Anti-Corruption Advocacy and Reform**

As has been observed in Sicily, Colombia, Georgia, Mexico, and elsewhere, civil society groups can play a dramatic role in reversing the influence of organized criminal networks and the institutional corruption they encourage and enable.<sup>17</sup> When properly networked and empowered, social activists, educators, entrepreneurs, elements of the media, religious leaders, and other moral authorities can together foster a critical mass of societal support for upholding the rule of law, while stigmatizing corruption, and thus generating

positive social pressure for reform. International forces and their civilian counterparts can create the space for these groups to mobilize unimpeded, in part by remaining aware that, much like the host-nation's judicial institutions, civil society organizations will become targets of intimidation and retribution from criminal networks and their political patrons. Support for and engagement with a post-conflict state's civic and social organizations can directly advance fundamental counterinsurgency and stability objectives, to the degree that a healthy, vibrant civil society is the foundation of a stable state whose institutions are responsive and whose leaders are accountable.

#### **Lesson 10 : Employ Incentives and Disincentives**

Although it must be carefully and strategically applied, international forces and their civilian partners should be aware of the leverage they maintain to shape events within a host-nation's political space. This leverage is afforded, in large part, by the security assurances provided by international forces, as well as by international assistance and spending, which in some cases may be the only reliable source of revenue for the government of a beleaguered post-conflict state. This leverage can prove vital when pursuing counter-corruption efforts, especially when host-nation officials' appetite for reform is minimal, and leaders will thus need to be persuaded and incentivized into action. Incentives can include, for example, the provision of additional assistance to a given state institution (or military unit), linked to the execution of a desired host-nation reform or law enforcement action. Targeted coercive financial sanctions or international law enforcement measures



represent yet another means of leverage that, again, must be applied only after consideration of the political context. Finally, although it represents a more indirect form of influence, the international community can take steps to integrate the host nation into international regimes and compacts related to corruption, transparency, and accountability, in an effort to encourage compliance with international norms and standards that appeals to host-nation leaders' concerns about the state's international reputation, standing, and sovereignty.

### Conclusion

Not only are the problems of corruption, organized crime, insurgency, and the narcotics trade in Afghanistan mutually reinforcing and convergent; they are also enduring. Even with concerted coalition and Afghan security and law enforcement efforts in the next two years, these problems will remain a threat to Afghanistan's stability and economic health long after the international force presence recedes. Likewise, the influence of narcotics profits in the Afghan political-economy may grow as ready access to international resources—and thus the potential for criminal diversion—diminishes. Any long-term security commitment to Afghanistan, therefore, must consider the capabilities and organizational arrangements necessary to sustain the integration of U.S., Afghan, and international law enforcement, counter-corruption, counter-narcotics, and counter-terrorism efforts.

The approach adopted by ISAF and CJIAF-Shafafiyat has parallels in a number of other successful models, which have integrated military and law enforcement efforts to stabilize states facing convergent threats of insurgency, organized crime, and government subversion. The U.S. Military Group (MILGROUP)

in Colombia, for example, is designed to train, advise, and strengthen Colombia's special forces in the fight against the narcotics trade, terrorism, and insurgency, while reinforcing regional partnerships. The work of the MILGROUP has contributed to the reversal of the narcotics-driven insurgent and paramilitary violence that had for decades paralyzed Colombia's politics, corroded its judicial sector, and left its population victimized. Another successful model drawn upon in Afghanistan is Joint Interagency Task Force (JIATF)–South, located in Key West, Florida, which marshals resources, shares intelligence, and coordinates operations across agencies in the fight against

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regional narcotics-trafficking. With representatives from the U.S. military, nine U.S. civilian agencies, and eleven different countries, JIATF–South has had a dramatic impact in disrupting and interdicting the flow of narcotics throughout Central/South America and the Caribbean.

As the U.S. military and national security establishment looks back on the wars of the last decade to cull lessons in preparation for future conflicts, the Afghan anti-corruption experience must be an essential area of focus. Few threats have cut as widely across U.S. and international forces' lines of effort in Afghanistan as corruption and organized crime. By hollowing-out the critical institutions the coalition and its partners have struggled to build, undermining the legitimacy of the government ISAF has sought to support,

preventing the mobilization of the population against the insurgency, and contributing to insurgent narratives, corruption has jeopardized all that the U.S. and its allies have set out to achieve in Afghanistan. ISAF's continually improving understanding of the problem, however, as well as its efforts to engage constructively with Afghan leaders on the issue—while at the same time assembling the proper tools necessary to address the challenge directly—have together laid the foundation for counter-corruption progress in the coming years. Much work lies ahead, clearly, and much still depends on the will of senior Afghan officials and political elites to commit definitively to reforms that, while daunting in the near-term, represent the country's best hope of achieving the promising and peaceful future its people, after decades of conflict, sorely deserve. **PRISM**

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<sup>1</sup> President Hamid Karzai, "Statement at the Bonn Conference," December 5, 2011.

<sup>2</sup> President Kamid Karzai, International Anti-corruption Day Speech, Kabul, Afghanistan, December 18, 2010.

<sup>3</sup> Matthew Rosenberg, "Malign' Afghans Targeted," *The Wall Street Journal*, December 29, 2010.

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## CONFRONTING THE THREAT OF CORRUPTION AND ORGANIZED CRIME IN AFGHANISTAN

University, Washington DC, June 17, 2011; Gretchen Peters, "Crime and Insurgency in the Tribal Areas of Afghanistan and Pakistan," Combating Terrorism Center at West Point, October 2010; and Phil Williams, *Criminals, Militias, and Insurgents: Organized Crime in Iraq*, Strategic Studies Institute, U.S. Army War College, June 2009.

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# Book Reviews

## ***Women and Wars: Contested Histories, Uncertain Futures***

By Carol Cohn  
Polity, Cambridge, UK, 2012  
256 pp., \$26.95  
ISBN-13: 978-0745642451

REVIEWED BY KRISTEN A. CORDELL

Carol Cohn's December 2012 anthology *Women and Wars* uses descriptions of the varied roles of women during conflict to push forward an agenda for full inclusion of their perspective in securing the peace. *Women and Wars* fills the vacuum left by the "women as victims" approach that characterized the early 2000's, with a diverse array of options for understanding the roles and perspectives that women have during conflict, including: soldiers, civilians, caregivers, sex workers, refugees and internally displaced persons, anti-war activists, and community peace-builders.

Over the last two years the expansion of information on women, peace, and security has been vast both within academia and policy circles. The space once characterized by "awkward silences,"<sup>1</sup> between feminist researchers and security practitioners is closing rapidly – assisted by an improved understanding of why gender matters during conflict and post conflict. During the preparation of the 2011 U.S.

National Action Plan on Women, Peace and Security, the U.S. government reached out to a consortium of civil society groups and academics, of which the author was a member. They were looking for "proof" (both empirical and anecdotal) that gender matters in stability operations, and data to show that women's equality is foundational to stability and security. Cohn's book is an excellent example of such proof. It is a series of well tested, field based examples of why gender matters during and after war.

As founding director of the Consortium on Gender, Security and Human Rights, Cohn's access and professional history have led to a book the strengths of which lie firstly in its diversity of subjects (the roles of women in war), and, secondly, in its' diversity of effort (the chapter authors). An introductory chapter provides context and concepts, setting the stage for an inclusive understanding of peace and security. Individual chapters within the book are authored by well-known scholars and practitioners, regularly relying on real life examples of impacts and outcomes. Chapters are organized thematically and cover such issues as security sector reform, disarmament, sexual and gender based violence, returnee and refugee issues. As a result, the traditional lens through which womens' participation in conflict has been seen for so long, that of victimhood, erodes with each compelling and well-written chapter.

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Research has proven that the inclusion of women earlier in the process of peace building and peacekeeping leads to greater security for the state as a whole.<sup>2</sup> We also know that gender parity plays a strong role in state stability. A 2005 study funded by the Canadian government assessing what factors make fragile states more so, concluded that “gender parity may play a strong and measurable role in the stability of the state”<sup>3</sup> even when separated from other known correlations. In other words, it showed that it is not just a matter of more developed societies being more stable, and more developed societies also being societies marked by greater gender equity, but rather that gender equity may well increase stability.<sup>4</sup> Inequitable societies (i.e. societies in which a portion of the population, principally women and/or ethnic minorities, are oppressed) show a much higher propensity to solve their international disputes by initiating violence and war.<sup>5</sup> Countries with a lower level of gender equality are more likely to engage in violence, international crises, and disputes.<sup>6</sup>

Transversely, research shows, as do many failed “nation building experiments,” that leaving women out of rebuilding and renegotiating in the post conflict space has dramatically harmful impacts on the direction of society by reducing stability and prosperity.<sup>7</sup> In other words, inclusivity begets stability. Cohn’s book not only makes this point, but also advances it by providing the blueprints on how to get there. Her chapter-by-chapter approach reveals a methodologically sound formula for addressing the needs of women’s inclusion across sections, specifically within security institutions that have for so long been male dominated: police, militaries, and militias (including non-state actors).

*Women and Wars* provides a strong assessment of foundational aspects of long-term exclusion of women from various stages of the conflict cycle. Cohn recognizes and responds aptly to the fact that, “institutions have gendered presumptions built into the structures, practices and values,” which in turn shape their agendas and priorities overall. She documents the fact that institutions often use ideas about gender to shape and produce policy, which may “in turn have cultural and structural impacts beyond the bounds of the institutions itself.” In other words, the experience of women during war is both shapes and is shaped by the local context. Perhaps nowhere is Cohn’s point more clear than in Afghanistan, where the presuppositions of U.S. institutions have profoundly influenced women’s equality and protection, while at the same time creating national backlash in the form of conservative decrees and an uptick in violence against women and girls.

Cohn’s point is particularly important in a post conflict context where identities may be malleable, and international institutions are strong in both resources and influence. She documents the importance of institutional identities in nation building processes, such as planning national elections, disarmament and demobilisation processes or security sector reform efforts. One finds that the identities of the institutions and their gendered orientation towards human security have great potential to impact the structured equality of women on the ground. The book’s chapter on women and peace processes is especially impressive in making this point as it moves step by step through the conflict cycle, examining entry points where women are both impacted and impactful of the on-going negotiations and mediation. The chapter relies on examples

from Afghanistan, Burundi and Sri Lanka to illustrate the fact that tradition and culture should not be confines of progress. Practitioners still struggle to figure out entry points, and how to use them best, a query that needs additional research the likes of which *Women and Wars* provides.

In the introduction, Cohn points to the fact that women's perception of wars and conflict know no "temporal nor spatial bounds." This being said, the only issue one finds with the text is that it does not completely address the "boundless" nature of war for women, but seems instead completely bound by a focus on hard sector security. The book's focus and strength is on reform of security sector institutions (state and non-state military forces) and security related processes (such as disarmament and demobilisation.) However, what is less obvious for the reader is the impact of conflict on women's health, economic and social well-being. In other words, where post conflict reconstruction meets development. In the case of health, for example, the chapter that covers Sexual and Gender Based Violence (SGBV) only addresses, "other health concerns related to war," as a chapter footnote to deal with pressing issues around HIV/AIDs and maternal mortality. It seems a number of social, perhaps developmental topics are omitted and as a result, the text is slightly incomplete in its understanding of the impact of war on women.

It is likely that aversion to addressing "soft sector" issues more concretely is borne out of the fact that these sectors have typically dominated discussions around gender and conflict for many years. As a result, "serious" feminist academics have sought to avoid evoking discussions around health and education because of the stereotypes they carried, namely that

women are victims.<sup>8</sup> However, to come full circle on the topics of understanding the gendered impact of war, we must take on a robust approach which integrates shifting social parameters alongside, for example, shifting movement of refugees.

In a world dominated by lengthy, smouldering inter-ethnic conflicts that do not end when the peace accord is signed, wars do not end quickly for women. Scholars of women, peace and security must be willing to take on anthropological and sociological vantage points to go more deeply into evolving social norms and behaviors that will actually impact that ability of a nation to recover from violent conflict.

War and its aftermath, Cohn concludes, is neither a discreet event nor a gender neutral one. Nor should be the researching, writing and policy responses to war. Over a year after the adoption of a National Action Plan on Women, Peace and Security was adopted, the U.S. government is making impressive strides to engender conflict and post conflict policies within USAID, the State Department, and the Department of Defense. New scholarly resources such as the Georgetown University Institute for Women, Peace and Security and the Social Science Research Council's International Centre for Gender, Peace and Security (IC-GPS) are working to continually improve what we know about women and conflict. Thanks to Cohn and her cohorts, today, we have all the proof we need: women matter during war. **PRISM**

## NOTES

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<sup>3</sup> David Carmet, et al. "Failed and Fragile States 2006," *Country Indicators for Foreign Policy* (2006).

<sup>4</sup> David Carmet, et al. "Failed and Fragile States 2006," *Country Indicators for Foreign Policy* (2006). Also See: Hudson, Valerie, Bonnie Ballif-Spanvill, Mary Caprioli, and Chad F. Emmett. 2012. *Sex and World Peace*. Columbia Press, NY

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<sup>7</sup> Valerie M. Hudson, Bonnie Ballif-Spanvill, and Mary Capriolo, *Sex and World Peace*. (Columbia University Press, NY, 2012).

<sup>8</sup> Charlie R Carpenter, "Women, children and other vulnerable group: gender, strategic frames and the protection of civilians as a transnational issue," *International Studies Quarterly*, 49(2) (2005): 295-334.

***The End of Power; From Boardrooms to Battlefields and Churches to States, Why Being in Charge Isn't What it Used to Be***

By Moises Naim  
Basic Books, USA, 2013  
320 pp., \$27.99  
ISBN-13: 978-0465031566

REVIEWED BY AMY ZALMAN

The title of Moises Naim's newest book is an apt summary of its basic thesis. *The End of Power: From Boardrooms to Battlefields and Churches to States, Why Being in Charge Isn't What it Used to Be* is about exactly that: how the large institutions and bureaucracies that have controlled territory, ideology and wealth for the last several hundred years have been compelled to cede this control to numerous smaller players.

Although the book reviews a number of definitions of power, its consistent focus is on how institutional power in the modern period came to be defined in terms of size and scope. In modern times, the bigger you are, the more powerful you are. When Naim says that power is decaying - the book's battle cry - he means that our mainstream definition of power as bigness no longer holds true.

Much of the book is spent detailing how "power got big," as Naim puts it, and the ways in which power as bigness has been challenged. We readers learn how this challenge has manifested itself in different institutions and spheres of activity. These include not only

governments, militaries and private corporations, but also religious institutions, unions, philanthropic organizations and the professional media. While this approach admittedly can get a little tedious, its great virtue is in demonstrating how singularly unified our ideas about power have become. Regardless of the institution, it seems, we think that to be powerful is to be bigger than everyone else. We also learn how comprehensively the power of large institutions - regardless of their function - is being challenged.

This breadth makes Naim's book an excellent go-to cross-disciplinary resource for current research on political power. In his view, all of these institutions are changing as a result of three interrelated phenomena, which he labels the "more, mobility and mentality revolutions." The "more revolution" describes the fact that there is "more of everything now ... more people, countries, cities, political parties, armies; more goods and services, and more companies selling them; more weapons and more medicines; more students and more computers; more preachers and more criminals" (54). This may be a bit of a simplification, as there are also fewer of many other items in the world; Naim's real point is that there are a greater number of healthier people whose basic needs for food, water, and shelter have been fulfilled. They are, as a result, less easy to control and have the ability to overwhelm systems.

By "mobility revolution," Naim means that people, ideas and capital move around with greater ease than they once did, thanks to a variety of factors. For example, diaspora and immigrant communities alter the balance of

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power both within their own new communities and in the larger geopolitical balance by spreading ideas and passing remittances to their home countries. Finally, the “mentality revolution” describes the effect of these other two phenomena on how different populations in the world think. As a result of exposure to more places, and people, and ideas, we - general populations the world over - are less likely than in previous eras to accept received wisdom or show obeisance to traditional forms of power. We question our governments, our churches, and the rights of corporate firms with greater force and effect than previously.

Naim’s fundamental point is nuanced and subtle; it is that the environment within which power operates has changed in substantial and irreversible ways. As a result, even though many of the institutions and events that we observe on that landscape may not look so very different than in the recent past, their ability to operate effectively - to exercise their power freely - is not what it once was.

However, this thesis can be difficult to tease out. Rather than making this subtle point, Naim makes outsized claims about the demise of power from which he must repeatedly retreat, caveating at every step. Exxon Mobil, JP Morgan Chase, and The New York Times, each a traditional powerhouse, are not about to simply disappear from the scene: each has “immense resources and hard-to-replicate competitive advantages that ensure their dominance in industry.” Instead, “they face a more dense and limiting set of constraints on their ability to act.” It is not hard to imagine that the exigencies of publishing - and the need to make extravagant claims in order to sell books - were the driving force behind the hyperbolic tendencies in the text. Read

carefully, however, and the nuanced point emerges.

What conclusions can we as readers draw from this state of affairs, and in what way should they be used to inform American policy-making? Naim offers a few answers, not least among them that the era of hegemonic power, whether held by nation-states or companies, is decisively over. “Looking for a current or new hegemon or a committee of elite nations to reassert control is a fool’s errand.”

That raft of books, think tank treatises and discussions, whether in popular forums or more rarified policy spaces, over whether the United States or China will control the future; over whether the 21<sup>st</sup> century will be an American century; or over whether Western democracies will rise again to the fore - are all missing the point. Yes, relative power may reside in American and Chinese hands, but Naim’s comprehensive review of big power demonstrates that the very framework within which we have defined power as intrinsically hegemonic has broken down. We must begin to think in new terms.

Beyond this general instruction, Naim does not offer much specific counsel. The last ten pages of the book are dedicated to solutions, and readers may wish that he had spent more time offering specific ways to approach this changed world. Indeed, in addition to suggesting that we must think in new ways about power, Naim tells us that we should increase our trust in the government and learn to strengthen political parties. This is an odd instruction, following over two hundred pages of strenuously argued prose about the fact that no one large institution, such as governments or even alliances of like-minded governments, can be restored to power.

I might suggest, alternatively, that if it is the case that we are inevitably living on a changed landscape of more actors, with greater mobility, we must prod our governments to put serious muscle into thinking about how to acknowledge and finally work with the political power that non-traditional, smaller actors wield. Rather than trying to revert to an era of certain trust in centralized government, with expectations of power that no longer obtain, we could support a government that seeks to function effectively in the kind of world Naim describes.

As one step, we should define power in new terms. Naim is persuasive on the point that sheer size - whether of territory, population, financial means, or arsenal - is no longer a defining characteristic of power. In order to make government more effective, we need a better grasp on what kinds of characteristics should be enhanced.

Non-state actors of the type included in Naim's analysis must be included in this project, so we can move beyond understanding small actors' power simply as disruptive. Not all smaller actors, or "micropowers," to use Naim's terminology, are successful in their endeavors. We must understand the contexts and terms of success of these actors. This is in no small part because effective governance, as Naim and others have made clear, is increasingly a function of collaborative networks working toward a unified goal. If the U.S. government intends to serve in a leadership role addressing complex issues in the future, it will have to become more sophisticated about developing effective networks with specific characteristics aimed at particular problem sets. We will have to move beyond the era of the public-private partnership into one in which multiple actors with particular

characteristics suited to different tasks are brought into effective working relationships.

This era begins with Naim's observations that power isn't "what it used to be," but it cannot end there. We must go on to figure out what power is now, in current conditions. Naim has long experience in, and great expertise in the arena of governance. His last book, *Illicit*, was about illegal trafficking, and provided thoughtful and full ideas about how to address this complex problem. We will need similar thoughtfulness in the future as the world Naim describes continues to unfold. His new book is a useful place to open a mainstream discussion of how big governments, firms, militaries and churches must think about power, if they are to have any at all in the future. **PRISM**

# An Interview with Lieutenant General Mike Flynn



*In 2010 you co-authored an article "Fixing Intel;" what was wrong with intel when you wrote that article?*

**Flynn:** When I looked at the intelligence system, as the Chief Intelligence Officer for the International Security Assistance Force (ISAF) and U.S. Forces Afghanistan in 2009, I realized that for us to be successful with President Obama's new population-centric strategy we had to refocus on the right aspects of the environment. We were focused to a large degree – I would say 95 percent – on the enemy networks (e.g. Taliban, the Haqqani Network, etc.). We had tremendous fidelity on those issues because we had been studying them for years. What we quickly realized was that we had no knowledge, no real understanding of the various tribal elements within Afghanistan. We had to understand

the cultures that existed, the dynamics of the type of government that we were trying to support and the population centers in which we were actually operating. We honestly did not have any deep understanding of any of that. We were trying to figure out who was who, from the local governments on up to the national government, and we did not have any captured data, information or knowledge. We did not have that real depth of understanding that we had in other places – in Iraq it took us a while to get there. Those conditions led me and two colleagues to sit down and put our thoughts together to say we needed to do something different. We needed to completely realign our focus to the population and to the build out of the Afghan National Security Forces. We outlined the color system: the red, the white, the green, and the blue. The red was the enemy; white was the population; green was Afghan National Security Forces; and blue was us. We had a really good picture of the red and the blue, but we had no picture of the green or the white, and it was really stunning. So, we decided to put our thoughts down on paper.

*That article had fifty thousand downloads within a fairly short time. Would you consider, three years later, that intel is now “fixed?”*

**Flynn:** No. In fact, just the phrase “intel fix” is flawed. Intel is constantly changing because the environment is constantly changing. Because of the new initiatives that were put in place in CONUS and in Afghanistan and changes at various training centers (such as the Army’s Joint Readiness Training Center at Fort Polk, Louisiana; the Army Training Center; the National Training Center at Fort Irwin, California; the Marine Corps training Centers, both at Pendleton and Lejeune), when units arrived in Afghanistan they were able to adjust to understanding the local population, the Afghan National Security Forces, and the governance that we were trying to help support. We also sought to continue to understand the enemy that we were facing, and the Civilian Operations Intel Centers (COIC) that we created were very helpful for the ISAF Joint Command (IJC). But ultimately, intel is not yet fixed. We are better at it, but it is a constantly changing environment.

*What are the obstacles to fixing it? To fixing the flawed processes?*

**Flynn:** The number one obstacle is culture; our challenge is changing the mindset of our military forces. Our military forces — Marines and our Soldiers, principally — know that they are coming into a combat environment and that it is a dangerous environment, so they have to focus on the enemy. But in order to be successful and in order to actually shift the environment back to the Afghans, we have to understand the population in which we are operating. We also have to understand

the Afghan National Security Forces that we were building and then incorporating into that environment. That task was really a difficult thing for many of our forces to come to grips with. Culture was probably the most difficult thing for us, specifically our culture and getting us to think differently about how we operate within the environment. If there is a lesson learned from this whole decade of war, it is that our failure to understand the operational environment actually led to a mismatch in resources and capabilities on the battlefield and how we applied them. Once we got over the hurdle of culture and asked — “Why do we have to do this?” — people who actually understood the problem realized this mismatch. In some cases, commanders made the change because commanders can change the training, and they can change how the military trains forces to prepare, advise, and assist. So instead of combat forces, which are what we had in the 2009-2010 timeframe, we shifted to advising and assisting forces. These require much more knowledge of the white and the green, which has been our whole focus in these last couple of years.

*Our conversation has focused on Afghanistan and by implication, Iraq. Would you say that these problems you identified in 2010 and the solutions you are discussing now are globally applicable?*

**Flynn:** Absolutely. “Fixing Intel” has been translated into a couple of different languages, one of which is Russian. Since the article was published, I have spoken and worked with partner nations on this issue, and now other nations are incorporating those ideas into their own country and regional contexts. We all have to understand the human environment

inside the boundaries of individual countries and inside this seemingly boundary-less world we now find ourselves. There is another application of “Fixing Intel,” which is integration of intelligence operations and law enforcement operations. We have spoken to law enforcement agencies about how they work with intelligence and they actually are, in many cases, applying the principals found in “Fixing Intel.” The article has had a broad impact.

*One of your priorities coming to the Defense Intelligence Agency (DIA) was the institutionalization of intercultural analysis. What motivated you to make that a priority? And how have you approached integrating those capabilities within the DIA and the broader intelligence enterprise?*

**Flynn:** This is a really interesting field because it has come out within the last 10 years, and for me personally intercultural analysis has had an impact, which is why I am making such a big deal about this. Over the last 30 or 40 years, there have been serious changes and the shifts in the societies and the demographics of some of the most difficult places where we operate, including Central Asia, the Middle East, North Africa, and Southeast Asia. Specifically, I think about the regions of Africa, North Africa, the Sahel, and the central African states. In some of these places there are challenges with governance, challenges with lack of governance, challenges with under-governed sanctuaries where militias exist, challenges where insurgents exist, and challenges from terrorists who can protect themselves – all compounded by the huge growth in populations over the last 30 to 40 years. So we have under-governed nations with large segments of populations – populations

comprised of a lot of young men, but with not-so-huge economies – that are going to turn to things such as transnational crime, narcotics, human smuggling, weapons smuggling, the kinds of negative trends that converge, that we then have to understand and then deal with. So the convergence of terrorism, the convergence of insurgent groups, the convergence of militia groups that are all coming together, as well as these transnational, organized, well-funded criminal activities, have not just regional impacts but global aspects that we have to confront. So the advent of socio-cultural analysis, the understanding of the human domain and the human environment is critical to our ability to be able to operate, support, engage and partner with some of these countries. Also, when we look back at ourselves, we have to consider how we design the force, how we structure our forces and the capabilities that we need to operate in this new, rapidly changing environment. I will tell you that intelligence, special operations forces, and cyber are three components that we want to apply in very different ways in this “Phase Zero” or pre-conflict environment. There are aspects of all three of these capabilities that I think, if blended together, can help us stay out of conflict and help other nations protect themselves.

*Are we now systematically collecting intel on populations and local socio-political dynamics in regions of interest?*

**Flynn:** I would not use the word systematically, but I would say that we are prioritizing the kinds of collection that we need in order to understand the environment. We are also working with new, and expanding our existing coalitions or allied partnerships in different

ways. We are definitely sharing information with many more new partners these days than we ever did in the past. This is information that is readily available to us, and our intelligence capabilities have matured to a point where we are very capable of gathering this kind of information and then working with our close partners, analyzing and assessing an environment, so we can help some of these partner countries do different things with that information. For example, we now understand the best places to begin health projects, the best places to build schools, and the best places to conduct irrigation projects where segments of populations exist without tribal boundaries. We have to be careful, because we, in our culture, think that if we want to get two tribes to work together, we should build a well right in the middle – but that is not necessarily what we should do. Instead, we should give them the shovels and give them the wherewithal to be able to build their own wells. They know how to dig. So in fact, the answer to your question is yes, and I think it is going to help us out quite a bit in the future.

*What is the relationship between intel and open-source information? And how can the two be seamed together to give national security policy-makers a better, more holistic understanding?*

Flynn: Open-source information is one of the misunderstood capabilities. Intelligence is analyzed information: it can be information reported by sensitive human intelligence, sensitive signals intelligence, sensitive geospatial intelligence, or even open-source information—which there is a lot more of these days, far more than there is of all those other types of information that I just mentioned. To

become actionable and useful, open-source information is then analyzed and turned into intelligence to provide the meaning of all this noise out there in the environment. Speaking from my own experiences, 10 years ago 80 percent to 90 percent of what I provided to my commanders when I was a division or army corps G-2 or JTFJ-2, of intelligence would come from sensitive intelligence sources. Approximately 10 percent, maybe even 20 percent would come from the open-source environment. But today, that has completely reversed. Today – and I am guessing a little bit, but I have seen some hard data on this – about 70 percent to 80 percent of what I am providing to decision-makers is actually coming from the open world. The sensitive information is really at about 20 percent to 30 percent. It has completely reversed in about a decade. Think about how social media sites like Facebook did not exist until about 2005; today there are more than a billion people using Facebook. Twitter was simply a sound in 2005; today it is how people are communicating. We have all these new media for information creating noise; I can follow Twitter on my personal iPad and see volumes of activity. Being in the intelligence field, I need to be able to incorporate those kinds of information feeds and turn the information into intelligence and give decision-makers meaning to what is happening in the environment. That is a huge change. I have grown up in a closed-loop system, and for 20 years of my career that was probably okay, but now we are in a completely open world, a far more open world than we have ever seen, and the intel community's closed-loop system has to adjust. We have to adjust to this new open world. If we do not adjust, then we are missing what these new voices are telling us.

*How does that particular change, the exponential increase in the number, the magnitude, the volume of information sources, complicate the intel community's work?*

**Flynn:** It is an immense complication; there is so much information. We create as much information in an hour today as we could download in all of 2004; that shows the magnitude of information that we are able to absorb. Now we really have to scope that information, to figure out what it all means, because most people will say, "How do you know what you're doing? Is there too much of it out there?" The huge amount of information really does require us to do a lot more prioritizing and to be much more precise in whatever we are looking for. In the past we could get away with very imprecise Priority Intelligence Requirements (PIR). We could get away with less-precise questions just 10 years ago, maybe even five years ago. Today, you cannot get away with imprecise questions. Our ability to get precision out of all the noise, out of this scale of information, is much better if our questions are more targeted and precise. The other aspect of this complication is how technology helps the analyst in this new environment. We are currently developing our outreach primarily to private industry. We are developing technological tools that allow us to do much better triaging of information and information feeds that are coming in. We are now vastly better than we were as recently as three or four years ago. I was in Afghanistan in 2009 and 2010, and as we sit here today I see that that environment, as well as our technological abilities, have rapidly developed to help our analysts get and contextualize all of this information. How do we figure out what it all means? There is some technology that

helps our analysts with that, but it still takes a uniquely-skilled, well-trained, intelligence profession to be able to decipher what it all means.

*In this environment, is institutional stove-piping – or compartmentalization – still a problem?*

**Flynn:** Stove-piping is less of a problem, but it is still a problem. We are better; we have made great progress in integrating our capabilities, in integrating our people. We still have some challenges in integrating our technologies, in integrating our communication systems. In the past there was some intention not to share; that is no longer the case. The intention is now to share instead of attempting to work in our own little system. There are still some hurdles because there are still some very sensitive things that need to stay sensitive. But the leadership, from the president on down, has every intention to increase the sharing of information and intelligence. We are working on building bridges to each other in our own systems, in our communications capabilities, and in how we put processes in place to ensure that we are sharing everything that we possibly can. Because I am asked sometimes, "What do you think are the biggest threats out there?" I believe that the biggest threat to the United States and our intelligence capabilities is our inability to work together. I think that everybody recognizes that if we do not work together, we are going to have failures in our systems. I would say 99.9 percent of people would say, "Absolutely. We want to work together. We want to integrate. We want to build the systems – to put the systems in place so we can work together better, and share information." But there are going to be things

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that are going to happen and we are going to find breakdowns or weaknesses in our system; but it is no longer intentional.

*Does that intention to share extend beyond the intelligence community to other agencies as well? Or is it restricted to the intelligence community?*

**Flynn:** Within the U.S. government, there are non-intel community partners with whom we have done a lot of great work. One thing that is not really well-known is our work with what we call the Non-Title 50 (NT50) crowd, which includes the Department of Commerce, Department of Agriculture, Federal Communications Commission, Social Security Administration, and Transportation Administration. One of the benefits of having the Office of the Director of National Intelligence (ODNI) is that they have discovered this other segment of our government that has an enormous footprint globally. The Department Health and Human Services, for example, monitors health and disease worldwide and DIA's National Center for Medical Intelligence is working much more closely with such organizations. On the operational side of our military forces, I would say that the fusion of intelligence and operations is probably one of the biggest lessons learned out of the last decade of war. We are trying to incorporate that lesson in our operational activities both in CONUS and around the world. We see this all the time in exercises, combat deployments and conflict deployments.

*You spoke about the integration of socio-political, cultural intelligence within the intel community. To what extent are we collecting information and creating*

*intelligence dealing with non-state actors, particularly transnational illicit networks?*

**Flynn:** This is difficult for defense intelligence. Defense intelligence is about understanding nation-state militaries and their capabilities, their intentions, their doctrine, their organization, and their leadership. What you are asking about reflects a really different dynamic that we are facing in the world today. It is not that transnational, organized crime was not around in the past—the mafia in the early part of the last century was a transnational, criminal organization—but the growth of this threat (and not just in terms of the scale and the dimensions, but also how well-funded many of these organizations are) is a new dynamic. They are funding things like militia groups, terrorist organizations, and other aspects of the environment, such as the global flow of narcotics and weapons. Weapons smuggling is a huge gray and black market driven by large sums of money and very interdependent and interconnected criminal organizations that are creating real havoc in some regions of the world and challenging countries to stand up strong governments to deal with these organizations. Consequently, on the defense side of intelligence and for intelligence in general, we are going to have to make some decisions about how much we prioritize and how many resources we put against these kinds of organizations. These non-state actors are absolutely impacting the ability of nation-states to do their jobs, to govern and to provide security, and to provide the wherewithal for the people living in a contiguous country. It is really difficult.

*What concerns me, particularly in times of austerity when we are emphasizing*



*partnership and building partner capacity, is how these illicit networks impact the security of our partners; countries like Mexico, like El Salvador, the Middle Eastern countries...*

**Flynn:** And I would just add, not to identify one country over another, but even in our own country and in our big cities there are transnational, organized criminal groups. Narcotics and other illicit networks now flow through all parts of the world. In West Africa, for example, all of the countries from Nigeria to Morocco are engaged—and in Southeast Asia, too. I just came back from Jakarta, where I spent a week with all of my counterparts, essentially about 20 nations' defense military intelligence officers, and we were not talking about big battles at sea, big air operations. We were talking about the kinds of issues we're talking about right now. We were talking about how we can deal with these criminal enterprises because they are affecting us like a cancer inside of our system, and we have to deal with it. We have to put the right medical application against it; we have to use the right kinds of tools to be able to rip it out of the system or at least stamp it down so it does not spread. It can really make things worse for a particular country as it is trying to govern its own population because these networks can be truly devastating.

*The conventional wisdom has it that venally-motivated, transnational criminal organizations would not work with ideologically-motivated, terrorist organizations such as al-Qaeda. To what extent do you think that those two separate kinds of organizations; the criminal organizations versus the ideologically-driven, terrorist organizations*

*and insurgency movements, are converging? Is convergence a reality?*

**Flynn:** Yes, convergence is a reality. The statement you began with is completely false: there are plenty of facts out there, and you could do a really good open-source survey of a lot of data that exists, clearly linking terrorist organizations. I define terrorist organizations as non-state actors, regional militias that are definitely causing problems inside of a region and in some cases, taking over whole regions. It depends on where we want to talk about, but whether it is on the continent of Africa, in Southeast Asia, South Asia, Central Asia, Central America or South America, terrorists are dealing with transnational, organized, extremely well-funded, criminal cartels who are helping them smuggle human beings, narcotics, and weapons. Anything that has a price on it, these groups are working together to traffic it. I think that the convergence you are describing is in fact happening faster than we are realizing it. I think that during the first half of this century we are going to see more and more of this. I see it certainly in our intelligence assessments. I think it is something that we are going to have to make some decisions about from a military perspective, concerning how we organize to protect and provide security for this nation in the next 50 years.

*So do the changes that we have been talking about suggest to you that the nature of conflict, the nature of war, the nature of defense, the nature of national security is evolving?*

**Flynn:** I would say that we are going to have to be incredibly agile if we continue to stay the way we are. It is important to always

have something in the tool bag—the military tool bag—to beat the existential threats that are out there. But how many tools do we need? Those are the issues being addressed by the Department of Defense. I believe that we are going to be more and more involved in these types of conflicts that we have seen over the last 40 years—from the early 1960s all the way through the last decade. So whether it will be just one way of war that the United States must prepare for, or whether it is the new way of war, I have a difficult time sitting here telling you precisely that that is going to be it. What I see, back to this idea of convergence, is our way of life being assaulted every single day, and it is not necessarily being assaulted by nation states. Actors who are gaining capability and learning the world of cyber – another converging activity in this non-nation-state world – are assaulting us. “Hacktivists” that in some cases work individually, and in other cases work collectively, are damaging our critical infrastructure. Cyber threats are another form of convergence because a hacktivist that steals money from the banking system and then funds threats in the physical world must be dealt with in a whole new way. From our little world here at DIA, we are actually looking at a completely new model for training our intelligence analysts. We are going to run a six-month pilot to learn how we can train analysts for the future. We have to start somewhere because it is no longer about order of battle (how many tanks, how many planes, the size of the air field, etc.); it is now about the socio-cultural dynamics of an environment. For instance, how many militias are out there; how many tribes exist and what they are doing; what is the size; what is the scale of the tribes and how many countries are there within a region. They do not see themselves with

borders. The borders created post-WWI or post-WWII do not exist for many people anymore.

*How has our intel helped national leaders understand the current crises of the day, such as in Syria, Libya, and Mali?*

**Flynn:** I think we have definitely helped our national security leadership understand what is happening, but I think we are still somewhat reactive. Figuratively speaking, after the punch has been thrown, we know what happened, or what is happening. As long as we are able to absorb that punch, which we have been able to do in the past, being in a reactive mode is doable. We can then provide better advice and assistance to help decision-makers make better decisions – to give them an advantage. What we are still really struggling with is preventing strategic surprise, which is part of DIA’s mission for the Defense Department. Years ago, we were able to measure activities and events in months, if not years in some cases, and over the last decade that measurement began to shift to days. Strategic surprise is now measured in days, possibly weeks, but we are still dealing with the advent of what is going on in Egypt and Syria. Egypt went through a change of government that took place in about 10 days. Trying to understand what was happening—judging it, assessing it, getting the community to figure out collectively whether we agree or disagree—proved our own processes may not be as agile as they need to be in this world where information bombards us. Our organization and our mindset still measures in the longer period of time, so we have to create a mindset and a culture that operates in a much more agile manner. We have to move to a decision, or at least

move to an assessment to enable a decision, much more quickly so decision-makers have more time. The less time they have, the fewer options they have.

*So perhaps we could say, as you wrote in an article that PRISM published, "We haven't yet gotten left of bang." Another of your priorities when you came here was to create a defense clandestine service. Why is it important that the Department of Defense have its own clandestine service and has there been any pushback to that idea?*

**Flynn:** The Defense Department has always had a human intelligence component in the department's overall structure. One of the major lessons learned from certainly the last 10 years, if not the last 20 years, is that we need a "fingertip feel" of the environment. We absolutely need to have, well-trained, culturally-attuned, language-capable individuals out there in the operating environment who can help us better understand what is going on in these operating environments, not only as military forces but as partners. We stood up the Defense Clandestine Service (DCS), which is an outcome of our former defense HUMINT service. It is a mindset change that is far more integrated with our national partners at the Central Intelligence Agency (CIA) and concentrated more overseas than in CONUS. We are shifting to a more overseas-oriented operation, and we are changing the cultural and the language requirements. DCS is a much more integrated force. I believe in the next couple of years it will be a much more effective force. We have encountered huge hurdles, but there is huge value in this capability, as we have done over this past year, and we have received support from many once-skeptical members of the

U.S. Congress. I think we have won more and more of them over as we have begun to demonstrate that we are much more integrated; we have a much more disciplined system in place; we are getting more and more people trained at the right levels; and we are creating opportunities for ourselves in the future. When I say opportunities, I am not just referring to opportunities for the individuals, but also to opportunities for the security of this nation, for the Defense Department and for some of the new strategies that we have. We are dealing with a doctrine of anti-access area denial, and that kind of a doctrine requires that those people who are forward deployed understand the defense requirements we must acquire. The more value we demonstrate, the lower those hurdles become and the less we are challenged in building this capability. If we want to stay "left of the bang," we absolutely need well-trained, culturally-attuned people in these environments to be able to understand what is happening out there and then feed that back into the system. We are doing this particularly on the defense side. We have a lot of defense partners in other countries with whom we have always worked, and so we absolutely want to further those relationships using this capability. The Defense Department can do that far better than many others in this business. **PRISM**





