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What's Wrong with Zero?

President Obama's pledge during a speech in Prague in April 2009 to eliminate nuclear weapons from the US arsenal was greeted positively by most people. Although Obama was careful not to specify when this goal would be achieved, he nonetheless set the country on a path to reduce to zero the number of nuclear weapons possessed by the United States. Yet, the president's vision is not shared by the other major holders of nuclear weapons: Russia, China, France, and Great Britain. In fact, unlike the United States, each has nuclear weapon modernization programs underway or planned. While not all of these programs necessarily aim to increase existing arsenals quantitatively, each envisions qualitative improvements to nuclear weapons and related delivery systems to ensure their credibility well into the future. A review of these nuclear modernization programs more than suggests that each country perceives the utility of nuclear weapons for its long-term national security.

Although Russian president Dmitry Medvedev broadly endorsed President Obama's goal, Russia quickly identified several conditions to attain agreement on a nuclear-free world, suggesting little enthusiasm for Obama's proposal. Moreover, Russia's nuclear modernization programs point to a continuing, not declining, role for nuclear weapons in its strategic thinking. Russia plans to gradually retire its aging SS-18, SS-19, and SS-25 ICBMs and replace them with modified Topol-M (RS-24) missiles capable of deploying multiple independently targeted warheads. To ensure the long-term viability of its sea-based deterrent, Russia will retire its Delta IV ballistic missile submarines and replace those platforms with new *Borei*-class submarines, each armed with 16 new Bulava missiles capable of carrying six warheads each.[1] In sum, as Stanford University research associate Pavel Podvig has pointed out, over the long term Russia's strategic nuclear arsenal could grow.[2]

China's strategic nuclear force, while modest, is also being modernized. Its current 20 DF-5 single-warhead ICBMs will be supplemented with new missiles, and a ballistic missile submarine equipped with medium-range missiles will be replaced.[3] China's upgrades to its ICBM force include the new road-mobile, solid-fuel DF-31 and DF-31A missiles, each with the potential to carry multiple independently targeted warheads.[4] Its sole ballistic missile submarine is slated for replacement with new boats equipped with ICBMs, also with the potential to carry multiple indepen-

dently targeted warheads.[5] While China embraces a minimum deterrence policy and will probably continue to deploy a small strategic nuclear force, the modernization of its land-based and sea-based ballistic missiles and the addition of modern ballistic missile submarines point to a commitment to retain nuclear weapons over the long term.

In addition to the nuclear modernization programs in Russia and China, two key US allies—France and Great Britain—have ongoing or planned nuclear force upgrades. France's strategic nuclear arsenal consists of sea- and air-based components. Importantly, both components are undergoing impressive modernization. France is deploying new *Le Triomphant*-class ballistic missile submarines, the newest to be equipped with advanced, longer-range M51 ballistic missiles as well as a new warhead in 2010. Also scheduled for 2010, France will upgrade its air-based nuclear component with new Rafale aircraft armed with advanced ASMP-A nuclear-tipped, air-launched missiles.[6] Among the "nuclear modernizers," only the future of Great Britain's nuclear force is problematic, at least at this writing. The British government announced in 2006 that it would replace its *Vanguard*-class ballistic missile submarines with a follow-on platform. However, in 2009 the government delayed the program pending an internal review. The replacement warhead for its submarine-launched ballistic missiles is to be based on the proposed US reliable replacement warhead, but since this program has not been funded by the Obama administration, the future of the British warhead is uncertain.[7]

On balance, then, the weight of ongoing and planned modernization programs among the major nuclear powers, except the United States, reveals the continuing importance of nuclear weapons in their national security calculus. Clearly, none of these countries would devote the substantial human and financial resources to nuclear weapon modernization if senior decision makers did not perceive the continuing relevance of those weapons. Thus, while the Obama administration pursues a vision for a nuclear-free world, the other major nuclear powers have ostensibly staked out a different course, and for the long term.

What's wrong with zero? Much. As Russian, Chinese, French, and British programs and plans for nuclear modernization show, no major nuclear-armed state, except the United States, currently accepts a nuclear-free world as a realistic goal. In fact, by devoting resources to nuclear modernization programs, these countries have made a clear, long-term commitment to procure and deploy qualitatively improved nuclear weapons

and advanced delivery systems. This level of commitment does not suggest that Russia, China, France, or Great Britain will embrace, even in the longer term, the same vision as the US administration. While each country will no doubt define differently the role of nuclear weapons in its national security, none appears poised to eliminate these weapons from its arsenal. Even if the major nuclear powers were persuaded to embrace the US goal, other known or suspected nuclear-armed countries perceive the usefulness of these weapons. As President Obama pointed out in his Prague speech, the technology to build nuclear weapons has spread. This spread occurred not as the result of some inevitable technological imperative but because some countries recognize the utility of nuclear weapons. Addressing the national security motives that drive these decisions should be a fundamental US foreign policy objective, not a clarion call to eliminate the instruments acquired to address those concerns. This is not to suggest that the United States should ignore attempts by irresponsible regimes or nonstate extremists to obtain nuclear weapons, but it is to urge more focused national policies that address security challenges as sui generis cases amenable to specific solutions instead of sweeping proposals unlikely to achieve more than broad verbal commitments while potentially undermining US security.

While one cannot prove that nuclear weapons deterred serious US or Soviet provocations during the Cold War, one can surmise these weapons played a nontrivial role in preventing superpower war. Although the potential for major state-on-state war is probably lower since the end of the Cold War, it is not absent. Carl von Clausewitz observed in his classic work, *On War*, that when the potential exists for extreme violence, states do not take the first step toward war without carefully considering the last step. Because nuclear weapons clarify and sharpen thinking about war in ways other weapons cannot, states are wary of taking the first step because they grasp the image of the last step.

Rather than an elusive quest for a nuclear-free world—a vision not only unlikely to garner substantive support among other nuclear-armed states but which also could diminish US security—a debate about the future role of nuclear weapons should occur. This debate is more urgent given the release of the Nuclear Posture Review in April and concerns about the purpose of nuclear weapons in the US arsenal, their numbers, and distribution across the triad. Crucial questions in that debate should be: Rather than zero nuclear weapons in the US arsenal, how low can we go?

What is the ideal mix at lower levels of nuclear weapons and delivery systems essential for US security? Under what circumstances will the United States use nuclear weapons? Should the United States retain a strategy of calculated ambiguity or adopt an approach that specifies actions that would precipitate a nuclear response? These and other questions should constitute the debate about the future of nuclear weapons—it is simply not an all-or-nothing choice.

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Notes

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Technology Assessment

Democracy's Crucible, the Future of Science and Technology, and Implications for Our Defense in the Twenty-first Century

Technology assessment (TA) has been known by different definitions down through the years, and it is possible that the failure to secure a uniform definition lies in the differences which social scientists, classical scientists, and the general public have about its core elements. Another key issue is that open and democratic societies seem to favor the practice of technology assessment despite variable ideas about what it means, while more restrictive societies with strict cultural and political sanctions on freedom of expression tend to oppose TA. For our purposes, we should try to outline a workable definition which is symptomatic of a highly innovative, technologically acquisitive, and scientifically robust society where political democracy and commercial entrepreneurship go hand in hand.

We should provide a definition that both reflects current reality and is expansive enough to encompass the next 25 years of political and technological development, swaying precariously between the extremes of reckless democratic expressionism and rampant materialistic nihilism. So what is technology assessment? *Technology assessment is the systematic evaluation of innovative, novel, and unique discoveries and developments in all fields of science and technology to examine both the immediate and long-term societal, political, and ethical impacts of new ideas and advancements to ascertain whether their net impact is either positive or negative. It also estimates any expected or unexpected outcomes which could result from, or be triggered by, these new ideas, advances, discoveries, and developments*.

Those vehemently concerned about TA, both historically and in contemporary times, may hold visions of modern-day Luddites, staunching every innovation or new scientific breakthrough because it contains an unknown level of risk to social stability. They point to Galileo and Copernicus, full of passion in defense of the pure pursuit of scientific knowledge, and quickly assert that all human progress is the direct result of scientific or technological innovation in one form or another. We can be proud of innovations in robotics, nanotechnology, genetic engineering, computer science, and other fields. However, the reciprocal caution we clearly understand with crude technical

insights is that new, history-making technologies bring unexpected costs as well as benefits. Democratic societies should exemplify and reflect the delicate balance between science's desires and society's needs—science wants free reign to create and explore, to open new frontiers, while society wants benefits and progress without adverse or inadvertent consequences.

It is especially important to assess the value of TA from a national security standpoint in terms of its potential to aid in threat analysis, to help thwart proliferation, and to awaken us to emerging weapons risks which are only decades away. While the partnership necessary to structure and sustain TA is a bit cumbersome and will likely be less than efficient in many respects, owing to its democratic and inclusive character, its overall aim is to partner the broadest array of citizens in an ongoing enterprise which tries to open a window on tomorrow. Military efforts to conduct TA will be ongoing and necessarily shielded from public view, but the explicit public TA process will shine illumination on all emerging and cutting-edge science, asking several fundamental questions:

- How will this discovery/technology affect society?
- How will the discovery/technology interact with existing technologies?
- What new risks attach to this new discovery/technology?
- Does the discovery/technology contain exploitable aspects for weapons?
- How will this discovery/technology alter our security?

In the spirit of TA's original purposes, we must consider its societal impact, negative political or economic consequences, the inadvertent triggering of new risks, or unforeseen secondary hazards, while systematically examining the overall benefits and disadvantages of any new technology on our community's security and safety. Open and democratic societies understand the crucial nature of this balancing act and will seek reasonable methods and mechanisms to undertake serious technological forecasting.

With the advent of carbon-based industrial processes, developments in atomic energy, and the creation of synthetic materials resistant to biodegradation, we were grimly brought face-to-face with profound new societal, political, ethical, and environmental challenges containing unknown or ambiguous downstream risks and consequences. We are still trying to tackle the unintended outcomes of these breakthrough technologies many years after they were unveiled. We are not arguing against technological progress or innovation and fearless exploration of the unknown.

Instead we argue that by displaying pragmatic caution, leaving room for reasonable doubt, and examining the downstream societal, cultural, and ethical consequences of new technologies, we avoid the Faustian bargain of endorsing something shiny and novel in exchange for absorbing its ambiguously malevolent properties. By weighing not only the benefits and advantages derived from new technologies but also grasping their less understood, sometimes latently harmful, and often subtly negative consequences, we have purchased a gift of enduring value. Using a strained allegory—it is not that progress cannot travel forward in time with society as co-passengers in a jetliner; instead, a security check is needed before we board the aircraft to ensure that all passengers on the flight into the future pose no risk or inadvertent threat to each other on the journey.

Before we find ourselves poised to blindly accept, hesitantly embrace, or vehemently oppose new discoveries in science and technology, we will need the benefit of facts and a willingness to provide a wide berth for critical analysis. Every advance in technology has admittedly breathtaking elements which hijack our imagination and pragmatic reserve long enough that our "gee whiz" rapture gradually overtakes any sentiment still lingering that the gizmo in our hands or the one driving our national aviation infrastructure is benign at worst. We are fascinated with new technologies, breakthroughs in biomedical sciences which save or prolong life, and handy "societal software" that makes overall life easier and less prone to drudgery. So we say, "Bring it on—let the consequences be damned." Or, we say "let's experiment with this long enough that we know with confidence it won't inadvertently harm or kill someone." For example, in accepting the blessings of nuclear power, we also tacitly accept in exchange the risks of a catastrophic radioactive emergency.

Examining the Risk Frontier

We face exciting and terribly beneficial discoveries in biotechnology, nanotechnology, plasma physics, materials science, space science, propulsion dynamics, artificial intelligence, cyber-engineering, and other fields, just to name a few. The tsunami-like wave of commercial endorsement for these discoveries and advancements is impossible to thwart even though many would argue that stifling obstacles in funding, restrictive boundaries on cutting-edge research domains, and enduring hurdles for new inventors threaten to keep us from leap-frogging to a much better life and economy. What is missing? It is the mechanism by which society, government, and

our major cultural institutions examine and experience newly emerging science and technology—*simply put, we have no mechanism sophisticated enough, clear enough, and sensible enough to permit the comprehensive and objective endorsement of future technologies*.

As a result, we find ourselves in an uncomfortable and untenable position. We are forced to trust scientists and our massive commercial-industrial infrastructure with the task of not only producing the great new breakthrough product, but also providing government and society with ironclad assurances that the immediate and long-term consequences for society, our political system, and our porous ethical standards will be benign at worst. While it may seem that what TA really seeks is greater regulation, stricter oversight of commercialization, tighter safety controls, and programs to safeguard society by sharply restricting the release of new technologies; that is not the goal. Nor is TA clinging to the notion of universal, industry-wide pledges of ethical conduct and personnel reliability programs to curtail unethical behavior among manufacturers or scientists. A serious discussion of safeguards and risk reduction is warranted.

The central problem is that no widely accepted, objective, reasonable, and enforceable system exists for TA—*simply put, we lack a reliable TA mechanism at the very time in our fragile social and political history when one is deeply needed*. This dilemma will hardly find adherents in most of the commercial world, because such efforts will be seen as imposing a net market disadvantage on American goods, technologies, and products in which other nations care not to engage. The United States must assess how and to what extent these TA issues will impinge on WTO agreements, world trade, market competitiveness, and salutary profit-taking, because the economic costs of investing in TA will be considerable. We cannot afford to forget how we accepted automobile seat belts, poultry inspectors, and financial disclosure statements as part of daily life and made them instrumental to reinforcing those aspects of an otherwise free democratic economy we cherish.

We must also be mindful of the national security implications of going down the TA road. The 2010 *Quadrennial Defense Review* (*QDR*) itemizes all the major initiatives and program areas of emphasis and DoD policy, including the continuity of terrorism, WMD proliferation, advancing our geopolitical interests, and promoting an international order cognizant of the rights and responsibilities of all nations. Seeking a fairly robust and transparent domestic TA mechanism poses the dilemma of protecting our

technologies, assessing over-the-horizon technology breakthroughs, and scanning the globe for emerging technologies that would impair or destabilize global security. This calls for a separate TA mechanism which, like its domestic counterpart, really does not exist right now, either within the intelligence community itself or among the blended interagency community of DoD, HHS, DHS, Energy, NASA, and other federal agencies purportedly seized with the advent of new technologies.

To assert the claim more bluntly, we have a risk frontier that is multidimensional. There is the *domestic component* focused on those technologies of commercial, medical, or national defense value. There is the *global component* which engages in a sophisticated analysis of existing and emerging technologies that would arguably have a benign influence on global security versus those technologies—dual use or otherwise—which would pose dramatic risks to alter, reshape, or destabilize the global security environment. Then there is yet a *third dimension* which eludes easy analysis. It entails space, cyber, nano, and micro technologies which operate unfettered in unrestricted domains of perpetual activity and research outside the boundaries of conventional trade or regulation. This will be called the *unbounded dimension* of technology assessment. It subscribes to no international legal or organizational rules and submits to no governing order. Instead, it arises in a diffuse free space of unarbitrated and undelineated dimensions like the traditional "Wild West," where the fastest gun tended to prevail and social stability was fleeting indeed. It largely answers to nobody and resists control.

For national security purposes, the chief concern is the apparent failure of strategic imagination and comprehensive threat analysis to adequately contemplate what the multidimensional scale, depth, and extent of the risk frontier actually is. Of course, the *QDR* states that we seek a military engaged globally with unmatched capabilities to perform a variety of missions. For our well- trained and equipped fighting forces, there can be no doubt we are second to none. If, however, as the *QDR* states, we must prevent and deter conflict—mindful of a wide range of contingencies to increase domain awareness, ramp up consequence management, increase the security capacity of partner states, and gradually nullify and reduce WMD threats—then how is this done in a strategic and systematic way? The answer is it cannot; we must jettison business as usual and strap on the synoptic analytical lens needed to genuinely assess the global risk frontier in the twenty-first century. This will be a massive and revolutionary long-

range undertaking that provides ample benefits in deterrence, force protection, and sustaining a strategic edge on all rivals, foes, and competitors. When we awaken in 2020, we must not be handicapped by the limited vision which guides us today. We must have a wider, more encyclopedic grasp of the global risk frontier; yet, we are a long distance from it.

Major Areas of Concern

The lack of a viable TA mechanism that earns the support of scientists, the public, and the media is especially troubling as we delve more deeply into the era of scientific experimentation and exploration in domains of high excitement and fascination—biotech, cybertech, nanotech, and hyperspace, for example. In each of these exciting domains, the green flag of welcome progress continues to fly proudly, yet there remains no system in place for analytically assessing whether we understand the downside risks and outcomes which may indirectly or inadvertently result. This dilemma exists for many advanced technologies to be sure, but there are a special few which come closer to covertly containing risks of unraveling our societal and political fabric than most others. A handful of revolutionary technologies in our midst deserve some closer scrutiny and consideration because they contain a high risk of dangerously adverse consequences.

Of course, these advanced technologies include fundamental risks such as (1) their inherently dual-use character, in that any one of them could potentially be exploited for weapons use or to inflict harm; (2) unforeseen risks that the technology will trigger cascading downstream effects inimical to society and culture; (3) unknown risks that arise when new technologies are blended with well-known technologies and the result is destructive or dangerous; and finally, (4) the new technology becomes a gateway to new societal risks only dimly understood, in the same manner that cybertech looks like the path to a more efficient world so long as the very real risks of cyber-terrorism are ignored.

This must be of special concern to everyday citizens and scientists alike, because new discoveries contain unknown risks that are often not systematically examined. We tend to tilt towards recognizing the benefits while ignoring the benign risks. For example, the search for an atomic weapon preceded the quest for nuclear power, while laser technology for medicine preceded development of airborne lasers for military use. We understand that possession of atomic weapons reflects the most potent strategic military leverage on Earth as of today, but we have no ironclad guarantees that

a new, more lethal technology cannot eventually be discovered, either as a rival offshoot or alternative mechanism of widespread destruction. It is possible to imagine a post-atomic weapon that equals, nullifies, or surpasses the atomic bomb and which grants devastating destructive power to its owner and alters the global security apparatus. Combining bionics, robotics, and new synthetic chemical properties could result in new "cyborg" outcomes or derivative weapons against which we would have no natural defenses.

We have procedures and some consensus on biosecurity safeguards and other related notions designed to protect society against untoward discoveries of new bioweapons or deadly pathogens. However, there is much work to be done, and the global pharmaceutical and biotech worlds routinely do not welcome intrusion or regulation, although they appear committed to trying the newer biosecurity and biosafety measures being proposed. We must also remember that a small, highly skilled cadre of bioweapons scientists could be covertly compelled by rogue regimes or terrorist groups to develop crude biological devices without regard to such safeguards, thereby raising the risks of deliberately inflicted pandemic for all nations.

Options for diverting legitimate advanced technology research into weaponization or misdirecting it for criminal purposes are dimly understood and easily dismissed as near science fiction; however, it is much less clear in the cybertech world, the nanotech frontier, and ongoing research into hyperspace possibilities. In each case, advances in technology always bring us to a crossroads of ethical ambiguity.

Genetic engineering, synthetic biology, and related biotech advances can allow scientists to manipulate the DNA, genomic structure, and related properties of certain diseases. Undesirable traits can be screened out, propensity for certain illnesses can be reduced, and healthier, smarter, or stronger people can be developed through cloning. Robotics, biomechanical hybrids, self-replicating nanobots, and emerging excursions into nano biotechnology make it even more difficult to sort out what new discoveries could produce. Harmless technologies benefitting society in ways never imagined is the hope—revealing new avenues to undermine and exploit humanity or society is the nightmare. Quite simply, we are victims of our own enchantment, because the desire to discover breakthroughs trumps any serious concerns about downside caution, let alone the trivialities of risk assessment.

In the national security arena, the areas of concern overlap all the subjects mentioned, with the additional caveat that possible weaponization of future technologies must be clearly understood and the options for preventing, curbing, or forestalling outcomes globally—which are inimical to our strategic interests—will be an overwhelming challenge. The very definition of a "weapon" could change in 20 years, as well as the prospect that the nature and variety of WMD could significantly increase. To think that incremental shifts in the strategic landscape are all we must worry about is to become foolish and unimaginative. Our focus must always be on significant technology leaps and quantum shifts in strategic capabilities which the United States and other nations may acquire and refine during the twenty-first century.

What is Needed?

It is not the issue of complexity which seems to steer us away from serious TA mechanisms. We have tried these imperfect systems before, laden with political and very unscientific hyperbola and fright mongering. Congress had its own Office of Technology Assessment (OTA) for over 20 years, ending in 1995, and efforts by the National Science Foundation, which predated the OTA, both reveal a process flawed by competing political, economic, and technical interests. What was missing was sustained political and scientific support for the notion of technology forecasting for its own sake.

What is needed is an explicit partnership between business, academia, and government where the views of ordinary citizens are also considered. Genetically modified foods worked their way into the American diet almost clandestinely and were gradually accepted; not so in Europe. Little serious thought these days is given to intensively examining genetically modified foods because they have been a part of our lives for more than 20 years. Downstream concerns about their generational effects, legacy impacts on public health, and their contributing role in cancer and other diseases must be discarded as hypothetical and irrational. We tend not to investigate that which we have socially accepted, even if engaging in long-term scientific analysis to assure our citizens might prove or disprove that belief.

Apart from the need to create an entirely new TA mechanism for the United States which exhaustively examines cutting-edge technologies to ascertain their positive and potentially negative aspects, there is a corre-

sponding need to engage inventors, venture capitalists, academicians, and other experts in the task of designing a viable TA system which can prove able to discharge its two most important functions—(1) to clarify, reveal, and advance promising technologies, tagging them for special endorsement and investment; and then, (2) to identify as much as possible the potentially negative and harmful effects of these technologies and how they may directly or inadvertently cause ill effects outside their intended areas of legitimate activity. We must show the way and demonstrate that such a process not only furthers science and technology but also safeguards democratic society. But this is not enough.

Promoting the effective use of a TA mechanism outside the United States also makes sense and would contribute to global stability and security if it is managed properly. Just as the G8 defines superpowers and the G-20 delineates prosperous economies, we should seriously consider creating a G-35 group of the states with the most robust science and technology infrastructure. This G-35 group would devote its energies toward the evaluation of emerging technology anywhere in the world, garner support for its nascent development, examine and foster the trajectory for its advancement, and safeguard it from nefarious manipulation into destructive outcomes or weaponization through a multilateral screening and evaluation mechanism.

Such a G-35 group will have to devote itself entirely to the global assessment of emerging technologies, taking account of those which are beneficial, harmful, or ambiguous in their overall societal, economic, and political effects. This will, of course, take many years and require the steady support and leadership energy of the G-20 membership, but it is neither impossible nor inadvisable. The emerging G-35 will become the world's next-best mechanism for technology forecasting and thereby contribute to the tasks of counterproliferation and development of new destructive weapons systems.

If we do nothing in either our domestic or international spheres, we risk finding ourselves awakening to a new era of destructive and devastating technologies which either came upon us by accident, by malevolent design, or by coercive manipulation of scientific energy. With a robust TA mechanism in place, we have erected a broader safeguard against future weapons more damaging than the atom bomb, the laser, or the hypersonic wave. We have purchased a measure of peace and bought precious time to allow existing and future democracies to flourish.

In many ways, the construction of a robust TA mechanism is democracy's crucible for filtering out destructive and inadvertently damaging technologies while ushering in an era of thoughtful, objective, and analytical assessment of emerging technologies in terms of their direct benefits to society. We can measure the harmful effects of existing technologies by looking at their impact on our environment, public health, national security, and overall livelihoods, but what about tomorrow's technologies? Will we have the tools and mechanisms for knowing as early as possible what the good and bad may be on the newest technologies, even as we embrace and support the ongoing appetite humanity so often displays for progress at any price?

The dilemma to be resolved is finding an appropriate balance between legitimate global TA mechanisms which hold the promise of balanced and controllable shifts in the global strategic landscape that are transparent and open to all, versus those which are legitimately the province of a sovereign state and enable that state to prepare and equip itself for exhibiting and retaining a strategic leadership posture in the community of global states. This offers yet another daunting challenge, because we remain vulnerable to strategic surprise, and our lack of a sophisticated, multidimensional threat analysis system which incorporates TA will be deterministic of our future as a sovereign state.

A future brimming with new technologies and discoveries is an exciting prospect to contemplate, but it will require adult supervision. Who can provide it in professional, accessible, and objective terms satisfactory to a skeptical and curious world? Without a mechanism to filter out and assess what the future contains that is rooted in our own ingenuity and fathomless tendency to create both good and evil, we face each new morning devoid of any protection against ourselves and where emerging technology takes us. Worse, without a strategy and structure for finding an equitable balance in domestic, global, and unbounded TA systems, we can expect that incrementalism itself will become the new mantra of strategic thought.

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Washington's Newest Bogeyman

Debunking the Fear of Failed States

Justin Logan
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The American foreign policy establishment has identified a new national security problem. Over the past two decades, foreign-policy scholars and popular writers have developed the ideas that "failed states" present a global security threat, and that accordingly, powerful countries like the United States should "fix" the failed states.[1] However, the conventional wisdom is based on a sea of confusion, poor reasoning, and category errors.

Much of the problem stems from the poor scholarly standards that characterize the research on state failure. The definitions of a "failed state" are now nearly as numerous as the number of studies about the subject. That ambiguity confounds analyses that seek to correlate threats with the "failedness" of states. Nevertheless, the idea received a boost after the terrorist attacks on 11 September 2001. Analysts concluded en masse that since Afghanistan was both a failed state and a threat, failed states were threatening. Interest in remedying state failure grew after the United States toppled the rickety structure of the Iraqi state, when it became clear that attempting to administer a failed state was difficult. Believing these difficulties can be overcome, many analysts suggest that if the United States can prevent state failure or repair failed states, it can reap gains not just in terms of international development but also in national security.

This article calls into question the validity of the concept of failed states and highlights the consequences of integrating fear of failed states into American grand strategy. Four areas are considered. First, we outline the

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theoretical and historical ideas from which the concept of state failure emerged. Second, we provide evidence of growing concern on the part of US policymakers about state failure, including structural changes in the US national security bureaucracy that aim at remedying state failure. Third, we sketch out some of the methodological problems with the research on state failure, pointing out that the very term *failed state* carries little meaning and even less policy instruction. Finally, we outline the high costs and dubious benefits of a policy focused on state building.

From Turbulent Frontier to Warmed-Over Wilsonianism

As great powers grow more powerful, they tend to define their interests more broadly.[2] In many cases, this can include a tendency toward threat inflation. This is as true now as it was for the British, who came to see monsters under every bed. Intent on maintaining their grip on the Empire, the British, at the height of their power in the nineteenth century, began focusing on the "turbulent frontiers" of their colonies of India, Malaya, and South Africa. Despite London's professed reluctance toward further intervention and expansion, statesmen regularly found themselves pulled beyond their own holdings in attempts to tame rambunctious populations. As one observer put it, "It was necessary to advance our dominions farther and farther for the mere protection of what we already possessed. Feuds on the border must be subjugated as a safeguard against the infection of rebellion at home." The effort to bring order to ungoverned areas instead of securing the Empire's hold on its existing territories served only to further expand Britain's perceived interests.[3]

Obviously, the British experience is an imperfect analogy to America's current situation, but American strategists are exhibiting similar thinking today. The US foreign policy establishment thinks of American interests in strikingly broad terms. As early as 1980, American policymakers sounded very ambitious. That year, president-elect Ronald Reagan's national security team concluded that "no area of the world is beyond the scope of American interest," and that the United States should have "sufficient military standing to cope with any level of violence" anywhere in the world.[4] This attitude was geared toward the perceived demands of the Cold War, but interestingly it did not die with the Soviet Union. In supporting cuts in military spending after the Cold War, GEN Colin Powell famously admitted from his post as chairman of the Joint Chiefs of Staff that "I'm

running out of demons, I'm running out of villains. I'm down to Castro and Kim Il Sung."[5] The choice was clear enough: cut defense spending or find new threats.

President Clinton's administration harbored a deep ambivalence about foreign policy, as compared to domestic policy. But underpinning the administration's foreign policy was a belief that any problem in the world, regardless of scale and no matter how remote, was in principle rightly the purview of US foreign policy. The administration expanded the mission in Somalia and intervened in Haiti, Bosnia, and Kosovo, with its inaction in Rwanda serving as the exception that proved the rule. One reason for Clinton's expansive view of American interests was the argument, gaining currency during the 1990s, that state failure (and weak states more generally) were the next important security threat.

With America's greatest enemy overcome, the Clinton administration developed what John Bolton aptly described as an "instinct for the capillaries."[6] It wholeheartedly embraced nation building as an important part of US national security policy. America's foreign policy thinkers joined in, cultivating concerns over failed states and drawing up proposals for repairing them throughout the 1990s. Retired diplomats Gerald Helman and Steven Ratner proclaimed in 1993 that "it is becoming clear that something must be done" about them.[7]

Following Helman and Ratner, Robert Kaplan warned about what he saw as "the coming anarchy." In a widely read and influential article in 1994, Kaplan urged Western strategists to focus on "what is occurring . . . throughout West Africa and much of the underdeveloped world: the withering away of central governments, the rise of tribal and regional domains, the unchecked spread of disease, and the growing pervasiveness of war."[8] Kaplan went on to warn, "The coming upheaval, in which foreign embassies are shut down, states collapse, and contact with the outside world takes place through dangerous, disease-ridden coastal trading posts, will loom large in the century we are entering."[9] Basing his case heavily on Malthusian economics and the notion that "the environment . . . is the national-security issue of the early twenty-first century," Kaplan predicted that competition for scarce resources and collective action problems of environmental degradation would precipitate conflicts.[10]

Notwithstanding the fact that many of Kaplan's suppositions were rhetorically overheated, his and others' contributions to the national debate over foreign policy after the Cold War pointed in an inevitable direction:

toward the idea that insecurity and instability in far-flung corners of the globe should be placed at the top of the list of US foreign policy concerns. Indeed, Kaplan's argument appeared in the comments of prominent Clinton administration officials such as Robert Rubin and Lawrence Summers, both of whom were concerned with the environmental and economic impacts of failed states. In congressional hearings, State Department official Timothy Wirth recommended the article to members of Congress saying, "Even if we wanted to be disinterested in the world, the world will always be interested in us; its problems will make their way to our shores, and become problems for us and our children. . . . This is not about pie-in-the-sky humanitarianism, it is about vital, very specific, national interests." Wirth concluded by promising to aim at "structuring a world community more hospitable to our interests and more in keeping with the values that we share with men and women of goodwill the world over."[11]

Turbulent-frontier thinking of the sort proffered by Kaplan had an enduring effect on President Clinton. Asked in an interview with *Foreign Policy* magazine in 2009 whether the war on terror would last longer than the Cold War, Clinton responded by endorsing once again Kaplan's view that "we are, de facto, no matter what the laws say, becoming nations of mega-city-states full of really poor, angry, uneducated and highly vulnerable people, all over the world." Clinton warned that if Kaplan were right, it meant that "terror . . . could be around for a very long time."[12]

During the campaign for the presidency in 2000, Republican candidate George W. Bush seemed skeptical about the utility and necessity of nation building. Bush argued that the role of US foreign policy should be to protect the vital interests of the United States. During the second presidential debate, he took a shot at the interventionism of the 1990s, stating, "I'm not so sure the role of the United States is to go around the world and say, 'This is the way it's got to be'."[13] Bush pointed to the high costs and dubious outcomes of nation building, concluding, "I don't think our troops ought to be used for what's called nation building. . . . I mean, we're going to have some kind of nation-building corps from America? Absolutely not."[14] Condoleezza Rice, Bush's national security adviser during the campaign, famously described the Bush view thusly: "Carrying out civil administration and police functions is simply going to degrade the American capability to do the things America has to do. We don't need to have the 82nd Airborne escorting kids to kindergarten."[15]

After 11 September 2001, however, the Bush administration changed course dramatically. *The United States National Security Strategy* (*NSS*) released in September 2002 was based on the idea that failing states posed a greater threat than strong ones and made "opening societies and building the infrastructure of democracy" a central plank of America's response to the 9/11 attacks. Part of the administration's new security policy would be to "help build police forces, court systems, and legal codes, local and provincial government institutions, and electoral systems." The overarching goal was to "make the world not just safer but better."[16] The reasoning of the 2002 *NSS* placed the Bush administration squarely in the Wilsonian tradition.[17] Clearly, the president had changed his mind about the wisdom of attempting to build nations.

With Bush's conversion to Wilsonianism came a bevy of new allies. Academics and pundits endorsed and amplified Bush's worry that state failure was a serious security issue. For example, Lawrence Korb and Robert Boorstin of the Center for American Progress warned that "weak and failing states pose as great a danger to the American people and international stability as do potential conflicts among the great powers."[18] Francis Fukuyama, professor at the Johns Hopkins School of Advanced International Studies, flatly stated that weak and failed states constitute "the single most critical threat to US national security."[19]

Once an idea of the left, the belief that failed states are threatening found a home on the political right as well. In July 2005, longtime Republican realist Brent Scowcroft co-chaired a task force on postconflict capabilities convened by the Council on Foreign Relations. Although somewhat less hyperbolic than other reports, the task force proceeded from the assumption that "[a]ction to stabilize and rebuild states marked by conflict is not 'foreign policy as social work,' a favorite quip of the 1990s. It is equally a humanitarian concern and a national security priority."[20] The report advocated tasking the national security adviser with directing stabilization and reconstruction missions and making stability operations a top priority for the military, among other objectives.[21]

Barack Obama exhibited little disagreement with these assumptions during his run for the presidency. In an essay in *Foreign Affairs*, Obama argued in 2007 that "since extremely poor societies and weak states provide optimal breeding grounds for disease, terrorism, and conflict," the United States must "invest in building capable, democratic states that can establish healthy and educated communities, develop markets, and generate

wealth."[22] As may be seen below, these ideas have permeated the foreign policy establishment and consequently affected US foreign policy.

The Growing Focus on Nation Building in the US Government

In July 2004 the State Department opened the Office of the Coordinator for Reconstruction and Stabilization (S/CRS), borrowing funds and personnel from elsewhere in the department.[23] The creation of the office was inspired by a sense of Congress resolution spearheaded by Senator Richard Lugar (R-IN) in the Senate Foreign Relations Committee and cosponsored by Senators Joe Biden (D-DE) and Chuck Hagel (R-NE).[24] The resolution sought to develop a civilian response capability with the purpose of carrying out stabilization and reconstruction work in countries beset by conflict. This new capability would be a core mission of the State Department and the US Agency for International Development (USAID).[25] Explaining the bill at a March 2004 hearing, Lugar argued, "International crises are inevitable, and in most cases, US security interests will be threatened by sustained instability."[26] A few weeks later on National Public Radio, Lugar said, "The sea change, really, in our foreign policy is that now it is acceptable and, in fact, desirable for Americans to talk about successful nation building."[27] According to a Congressional Research Service report published at the time, the desire to create new stabilization and reconstruction capabilities was rooted in concern over the ongoing Iraq operation and the desire for greater civilian involvement in the postconflict phases of military operations.[28]

In addition to "monitoring political and economic instability worldwide to anticipate the need for mobilizing United States and international assistance for countries or regions [in, or in transition from, conflict or civil strife]," the office is tasked with "determining the appropriate nonmilitary [responses of the] United States."[29] While the law created a legal basis for the S/CRS, Congress starved the office of funding in the 2006 foreign operations bill. Although Congress allocated $24.1 million to staff the S/CRS, it zeroed out the $100-million request for a "conflict response fund," which would have created a standing corps of nation builders.

Over time, however, the office began to receive greater funding. The Obama administration's FY 2010 budget request included $323.3 million for the Civilian Stabilization Initiative (CSI), roughly a fourfold increase over the Bush administration's budget for FY 2009. While Congress cut the figure down to $150 million, including $30 million to the USAID,

that still represented a doubling of the CSI budget in one year. For FY 2011 the Obama administration asked for $184 million for CSI.[30]

Despite previous setbacks, the Obama administration wants to continue the work of establishing a standing corps of nation builders. The budget proposal for FY 2011 argues for a continued effort in building up a 2,250-member Civilian Response Corps (CRC). This number includes 250 active members plus another 2,000 standby component members.[31] The CRC cuts across at least eight federal agencies, including State, Justice, Treasury, Commerce, Agriculture, Homeland Security, Health and Human Services, and USAID.[32]

As the above numbers indicate, the US government's state-building efforts are still decidedly limited. The S/CRS is playing only a very minor role in Iraq and Afghanistan. An S/CRS team deployed to coordinate US government support for the Afghan presidential elections in August 2009 and has provided modest support for similar activities in Iraq. Beyond these missions, the office's activities have been limited to planning exercises and coordinating financial support in places such as Haiti, Congo, and Bangladesh.

Similar gaps bedevil US efforts to deploy so-called provincial reconstruction teams (PRT) in Iraq and Afghanistan. Despite forceful national-security appeals for Americans to join PRTs in those countries,[33] the results have been unimpressive. As of 2008 in the 12 US–led PRTs in Afghanistan, 34 of the 1,055 personnel came from civilian agencies. In Iraq in 2008 the situation was somewhat better: roughly 450 Americans were serving in the 28 US–led PRTs, 360 of whom were from civilian agencies.[34] Still, this result came only after top State Department officials toyed with the ideas of forcing Foreign Service personnel to deploy to Iraq and adopting military rather than diplomatic security standards governing their deployments.[35] These proposals encountered significant resistance within State, indicating an apparent institutional rigidity likely to hinder any effort to develop a workable and sizeable corps of on-call nation builders.

In late 2009, Stuart Bowen, the US special inspector general for Iraq reconstruction, offered a new proposal for coordinating reconstruction and stabilization: a US Office for Contingency Operations (USOCO). According to Bowen, the new office would "solve the unity of command problems encountered in Iraq and Afghanistan . . . [and have] full responsibility for managing the relief and reconstruction component" resulting

from future US conflict by acting as the single point of contact between military and civilian reconstruction teams.[36] Though only a proposal, it is yet another example of the continued growth of a bureaucracy being built around the idea that America should attempt to fix failed states.

Along with changes in the State Department and other civilian agencies, the US military has made significant changes to its doctrine to protect the United States from the threat posed by the supposed state-failure/terrorism nexus.[37] Senior military officers have taken their cues from civilian opinion leaders who contend that the US government must improve its capacity for nation building. In particular, two new field manuals are rooted in the idea that to protect the country against terrorism, Washington will have to create effective governments in other countries.

Of particular importance is Field Manual 3-24, the US Army and Marine Corps manual for waging counterinsurgency (COIN), which was released in late 2006 to an unusual amount of attention. After being downloaded 1.5 million times within the first month from the Fort Leavenworth and Marine Corps Web sites, the manual was published by the University of Chicago Press and reviewed by the *Chicago Tribune, Los Angeles Times,* and *New York Times*, where it received an editors' choice award.

The interest is understandable. As field manuals go, it is a page-turner. The writing team went out of its way to avoid bland, jargony prose and also reached out to civilian experts on matters of substance. Georgetown University professor Colin Kahl called the new field manual "the single best distillation of current knowledge about irregular warfare."[38] Yale University's Stathis Kalyvas described the sweep and breadth of the document, noting that it proposed "a strategy of competitive state building combining targeted, selective violence and population control, on the one hand, with the dissemination of a credible mass ideology, the creation of modern state structures, the imposition of the rule of law, and the spurring of economic development, on the other."[39]

The Army released FM 3-07, *Stability Operations*, two years later. Perhaps anticipating public skepticism toward a repeat of recent wars, LTG William B. Caldwell IV, commander of the US Army's Combined Arms Center, predicted: "America's future abroad is unlikely to resemble Afghanistan or Iraq, where we grapple with the burden of nation-building under fire. Instead, we will work through and with the community of nations to defeat insurgency, assist fragile states, and provide vital humanitarian aid to the suffering."[40]

As demonstrated above, the assumptions underlying these doctrinal developments are consonant with the emerging consensus in Washington. The stability operations field manual asserts, for example, that "the greatest threat to our national security comes not in the form of terrorism or ambitious powers, but from fragile states either unable or unwilling to provide for the most basic needs of their people."[41]

Still, the reason for focusing on counterinsurgency and stability operations is the belief, as Caldwell described it, that today's is an "era of uncertainty and persistent conflict," and that these conditions are likely to endure into the future.[42] But one searches in vain for a time when the US military justified its doctrine on the assumptions that the age was characterized by certainty and abating conflict. Moreover, as journalist Thomas Ricks has pointed out, the title of the manual is inaccurate. Ricks noted that the United States did not invade Iraq or Afghanistan to provide stability, but rather to precipitate social and political change, and suggested that a more apt description of US policy in these countries would be "revolutionary operations."[43]

As the lead authors of the counterinsurgency manual noted in *Military Review*, the United States' superior capabilities in conventional warfare make it likely that future opponents will be more inclined to resort to irregular methods, such as terrorism and insurgency, to achieve their political goals and prevent the United States from achieving its goals.[44] Accordingly, it is not surprising that military leaders are taking steps to prepare for waging counterinsurgency and postconflict stabilization missions. DoD Directive 3000.05 declared that stability operations constituted a "core US military mission" for the Department of Defense and placed such operations at the same priority level as combat.[45]

Even budget priorities are slowly beginning to shift toward capabilities for nation building. Secretary of Defense Robert Gates argued in a 2007 speech that because it was hard to conceive of any peer competitor arising in the coming years, an increasing share of the national security budget should be dedicated to influencing political change in small, weak countries.[46] In keeping with this view, Gates has justified efforts to cut conventional platforms such as the F-22 on the grounds that they are irrelevant to today's wars.[47] While sizeable cuts to conventional platforms do not appear on the horizon, it is clear that COIN and nation-building enthusiasts have taken a seat at the DoD table and are working to expand their shares of the budget.

Given the growing acceptance of arguments about failed states and the fact that these ideas have begun to affect US foreign policy, it is striking how ill-defined the terms of debate have been. How can we measure state failure? What are the historical correlations between the attributes of failed states and the supposed security threats they pose? Below we show that by the established definitions of state failure and a reasonable interpretation of the word "threat," failed states almost always miss the mark.

Impressionism as Social Science

A survey of the formal studies of state failure reveals a methodological wasteland. Analysts have created a number of listings of failed states, which have, in fairness, overlapped considerably; all are populated by poor countries, many of which have been wracked by interstate or civil violence.[48] However, instead of adhering to basic social-scientific standards of inquiry, in which questions or puzzles are observed and then theories are described and tested using clearly defined independent and dependent variables, analysts began by drawing up a category—failed state—and then attempted to create data sets from which theoretical inferences could be induced.

To take one prominent case, the authors of the *State Failure Task Force Report* contracted by the Central Intelligence Agency's Directorate of Intelligence chose to adjust their definition of "failed state" after their initial criteria did not produce an adequate data set for the quantitative tests the researchers wanted to perform. After dramatically expanding the definition, the task force produced almost six times more countries that could be coded "failed" as compared with their original criteria and then proceeded with their statistical analysis. They justified this highly questionable decision on the judgment that "events that fall beneath [the] total-collapse threshold often pose challenges to US foreign policy as well."[49] Subsequently, the task force changed its name to the "Political Instability Task Force" and appeared to back away from the term *failed state*.[50]

Beyond methodological shortcomings, the lists of failed states reveal only that there are many countries plagued by severe problems. The top 10 states in the 2009 Fund for Peace/*Foreign Policy* magazine Failed States Index include two countries the United States occupies (Iraq and Afghanistan), one country without any central government to speak of (Somalia), four poor African states (Zimbabwe, Chad, the Democratic Republic of the Congo, and the Central African Republic), two resource-rich but

unstable African countries (Sudan and Guinea) and a nuclear-armed Muslim country, population 176 million (Pakistan). The sheer diversity of the countries on the lists makes clear that few policy conclusions could be drawn about a country based on its designation as a failed state.

In fact, what has happened is that analysts have seized on an important single data point—Afghanistan in the 1990s and 2000s—and used it to justify a focus on failed states more broadly. Because Afghanistan met anyone's definition of failed state and because it clearly contained a threat, analysts concluded en masse that failed states were threatening. When confronted with the reality that the countries regularly included on lists of failed states include such strategic non-entities as the Democratic Republic of the Congo, Liberia, and East Timor, advocates of focusing on state failure routinely point back at the single case that can be justified directly on US national security grounds: Afghanistan.[51]

Even in Afghanistan, however, remedying the condition of "state failure" would not have eliminated the threat, and eliminating the threat—by killing or capturing Osama bin Laden and his confederates—would not have remedied the "failure." The fact that expansive claims about the significance of state failure have been used to market studies of the subject, when viewed in light of the diverse and mostly nonthreatening states deemed "failed," leaves the impression of a bait and switch.

For instance, the 2007 update of the Failed States Index promises on the magazine's cover to explain "why the world's weakest countries pose the greatest danger." The opening lines of the article declare that failed states "aren't just a danger to themselves. They can threaten the progress and stability of countries half a world away." Strikingly, then, the article does little to back up or even argue these claims. It instead shrugs that "failing states are a diverse lot" and that "there are few easy answers to their troubles." By 2009, the index was conceding that "greater risk of failure is not always synonymous with greater consequences of failure," and that the state failure-terrorism link "is less clear than many have come to assume."[52]

Given these concessions undermining the idea that state failure is threatening, one wonders why scholars continue to study failed states at all. As seen above, the countries on lists of failed states are so diverse that it is difficult to draw any conclusions about a state's designation as failed. But the purpose, one would think, of creating a new category of states

would be to unify countries that share attributes that can inform either how we think about these states or how we craft policies toward these states. Instead, the scholarship on state failure has arbitrarily grouped together countries that have so little in common that neither academic research nor policy work should be influenced by this concept. Despite repeated claims to the contrary, learning that a task force has deemed a particular state "failed" is not particularly useful.

Start with the Conclusions and Work Backward

Existing scholarship on state failure seems to indicate that the conclusion led to the analysis, rather than vice versa. Scholars who argue that "failed state" is a meaningful category and/or indicative of threat provide a rationale for American interventionism around the globe. Given the arbitrary creation of the category "failed state" and the extravagant claims about its significance, it is difficult to avoid the conclusion that research on failed states constitutes, as one analyst put it, "an eminently political discourse, counseling intervention, trusteeship, and the abandonment of the state form for wide swaths of the globe."[53]

The policy proposals offered by state failure theorists certainly meet this description. In 2003 retired diplomats James Hooper and Paul Williams argued for what they called "earned sovereignty"—the idea being that target states would need to climb back into the good graces of the intervening power to regain their sovereignty. In some cases, this would mean that domestic governments would perform whatever functions were allowed by the intervener, but other duties would be retained by the outside actor. "The element of shared sovereignty is quite flexible . . . as well as the time frame of shared sovereignty. . . . In some instances, it may be indefinite and subject to the fulfillment of certain conditions as opposed to specified timelines."[54] The premise seems to be that countries will be returned to the control of their indigenous populations when the intervener decides it is appropriate.

James Fearon and David Laitin, both political science professors at Stanford University, promote a new doctrine that "may be described as neotrusteeship, or more provocatively, postmodern imperialism."[55] As they see it, this policy should not carry the stigma of nineteenth- or twentieth-century imperialism. "[W]e are not advocating or endorsing imperialism with the connotation of exploitation and permanent rule by foreigners."

On the contrary, Fearon and Laitin explain, "Postmodern imperialism may have exploitative aspects, but these are to be condemned."[56]

While perhaps not intentionally exploitative, postmodern imperialism certainly does appear to entail protracted and quasi-permanent rule by foreigners. Fearon and Laitin admit that in postmodern imperialism, "the search for an exit strategy is delusional, if this means a plan under which full control of domestic security is to be handed back to local authorities by a certain date in the near future."[57] To the contrary: "for some cases complete exit by the interveners may never be possible"; rather, the endgame is "to make the national level of government irrelevant for people in comparison to the local and supranational levels."[58] Thus, in Fearon and Laitin's model, *nation building* may not be an appropriate term; their ideas would more accurately be described as nation ending, replacing national governments with a supranational governing order.

Stephen D. Krasner, director of the State Department's policy planning staff under George W. Bush and a leading advocate of focusing the department increasingly on state building, believes that the "rules of conventional sovereignty . . . no longer work, and their inadequacies have had deleterious consequences for the strong as well as the weak."[59]

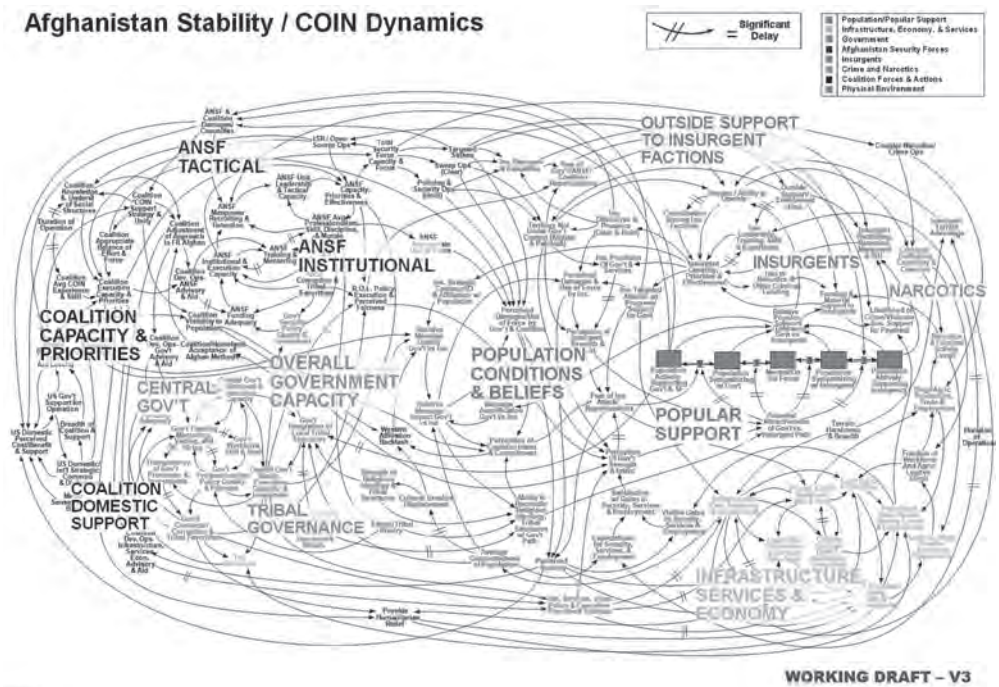
Krasner concludes that to resolve this dilemma, "Alternative institutional arrangements supported by external actors, such as de facto trusteeships and shared sovereignty, should be added to the list of policy options."[60] He is explicit about the implications of those policies and admits that in a trusteeship, international actors would remain in control indefinitely. The intervening power would maintain the prerogative of revoking the target's sovereignty and should make no assumptions of withdrawal in the short or medium term.[61]

Krasner's candor about the implications of his policy views, however, was not equaled by a willingness to label them accurately. "For policy purposes, it would be best to refer to shared sovereignty as 'partnerships.' This would more easily let policymakers engage in organized hypocrisy, that is, saying one thing and doing another. . . . Shared sovereignty or partnerships would make no claim to being an explicit alternative to conventional sovereignty. It would allow actors to obfuscate the fact that their behavior would be inconsistent with their principles."[62]

Development experts with an interest in state failure agree that seizing political control of weak states is the answer. Paul Collier, for example, writes that outside powers should take on the responsibility of providing

public goods in failed states, including security guarantees to indigenous governments that pass Western democracy tests, and the removal of guarantees coupled with the encouragement of coups against governments that fail such tests.[63]

In part, these sweeping admonitions to simply seize politico-military control of the countries in question result from the failure to determine which of the "failedness" indicators should be addressed first or whether there is any order at all. While some studies have proposed hierarchies of objectives, starting with security and ending with development,[64] it is clear that for many analysts, the causal arrows zigzag across the diagram. Each metric is tangled up with others, forcing those arguing for intervention to advocate simultaneous execution of a number of extraordinarily ambitious tasks. David Kilcullen lists "cueing and synchronization of development, governance, and security efforts, building them in a simultaneous, coordinated way that supports the political strategy" as only one of eight "best practices" for counterinsurgents.[65] In Afghanistan, the flow chart of the December 2009 strategy seeking to repair that state looked more like a parody:[66]



Discussing this dilemma of interlocking objectives in the context of Afghanistan, Rory Stewart remarks that:

> Policymakers perceive Afghanistan through the categories of counter-terrorism, counter-insurgency, state-building and economic development. These categories are so closely linked that you can put them in almost any sequence or combination. You need to defeat the Taliban in order to build a state and you need to build a state in order to defeat the Taliban. There cannot be security without development, or development without security. If you have the Taliban you have terrorists, if you don't have development you have terrorists, and as Obama informed the *New Yorker*, "If you have ungoverned spaces, they become havens for terrorists."[67]

Not only do all bad things go together in these analyses, but it also becomes difficult if not impossible to discern which objective should be the primary focus of state-building efforts. Similarly, on the issue of state building and democracy, Francis Fukuyama informs readers that "before you can have a democracy, you must have a state, but to have a legitimate and therefore durable state you must have democracy." Acknowledging the circularity of this argument, Fukuyama offered only the rather unsatisfying concession that the two ends "are intertwined, but the precise sequencing of how and when to build the distinct but interlocking institutions needs very careful thought."[68] This is a platitude and should be cold comfort to policymakers who are being urged forward by the same experts to perform these ambitious tasks.

The High Costs of Targeting State Failure

We have argued that the "failed state" category is a vacuous construct and that the countries frequently referred to as failed states are not inherently threatening. For those whom we have not convinced, however, we now examine the historical record and attempt to examine the costs of a national security policy that placed a high priority on attempting to fix failed states. It is of course impossible to determine the precise cost of any mission beforehand. Historically, however, such operations have been extremely costly and difficult.

In a study for the RAND Corporation, James Dobbins and his coauthors attempt to draft a rule-of-thumb measure for the costs of nation building in a hypothetical scenario involving a country of five million people and $500 per capita GDP.[69] For less ambitious "peacekeeping" missions, they calculate the need for 1.6 foreign troops and 0.2 foreign police per 1,000 population, and $1.5 billion per year. In the more ambitious

"peace enforcement" scenarios, they figure 13 foreign troops and 1.6 foreign police per 1,000 population, and $15.6 billion per year.[70]

Curiously, though, Dobbins et al. approach this problem by deriving average figures from eight historical nation building ("peace enforcement") missions, five of which they had coded in a previous study to indicate whether or not they had been successful. One of these (Japan) they coded as "very successful," two (Somalia and Haiti) were "not successful," one (Bosnia) was a "mixed" result, and one (Kosovo) was a "modest success."[71] The authors then simply averaged the costs of these missions and deemed the resulting figures to be a rule of thumb.[72] It is unclear why future missions should be based on historical experience when the historical examples used to derive the figures produced successes, failures, and results in between.

Our methodological criticism notwithstanding, even taking Dobbins et al. on their own terms reveals how remarkably costly it is to attempt to fix failed states. Using the model laid out in Dobbins et al., we calculated the cost of nation building in three countries: Yemen, Somalia, and Pakistan. A peace enforcement mission in Yemen would cost roughly $78 billion the first year, whereas a peacekeeping mission would cost roughly $12 billion the first year. Similar missions in Somalia, with a smaller population and a smaller per capita GDP, would only cost around $30 billion and $3 billion, respectively.[73]

In the case of a larger country, like Pakistan, the costs would be significantly higher. A peace enforcement operation in Pakistan would cost approximately $582 billion the first year, while a peacekeeping operation would cost around $81 billion. In all these examples, the peace enforcement numbers contain very high military costs. According to Dobbins' model, a peace enforcement operation in Pakistan would require more than two million international soldiers, costing about $200,000 each.[74]

Analysts Frederick Kagan and Michael O'Hanlon suggest that even for the minimal task of trying to tip the balance of an intra-Pakistani conflict, the "international community" would need to contribute between 100,000 and 200,000 troops (only 50,000–100,000 of whom would be US, they suggest), and this represents "the best of all the worst-case scenarios."[75] As quickly becomes clear, intervening in any of the frequently mentioned failed states implies significant costs.

As Kilcullen observes in the context of counterinsurgency, a corps of state builders should be available to stay in the country indefinitely. He proposes that "key personnel (commanders, ambassadors, political staffs,

aid mission chiefs, key advisers, and intelligence officers) in a counter-insurgency campaign should be there 'for the duration'."[76] But it is unlikely that Western governments possess large pools of workers willing and well-equipped to deploy to Bangladesh, the Democratic Republic of the Congo, or Haiti "for the duration." Western civil services—and even most, if not all, Western militaries—are not comprised of a separate class of citizens who live their lives in far-flung locales, away from family and country, indefinitely. It is for this reason that, in addition to the structural changes highlighted above, a number of policy reports have called for radical overhauls of the national security establishment in the United States so that it can be better tailored to repair failed states.[77]

Failed Thinking, Not Failed States

From new military doctrines and budget priorities, to state-building offices in the State Department, to the myriad proposals for transforming the entire US national security establishment, a long-term strategy of fixing failed states would entail dramatic change and high costs. More appropriate—and far less costly—than such dramatic changes would be a fundamental rethinking of the role of nation building and the relevance of state failure to national security planning. However, this does not appear likely. Thrust forward by the claims of threat, but unequipped with the expensive tools necessary for the task, policymakers look likely to persist in the failed approach to the subject that they have applied in recent years. If we intend to seriously embark on a plan to build nations, we must be prepared to bear heavy costs in time, money, and lives—or we must be prepared to fail.

Moreover, no matter how evenhanded the United States may attempt to be, if US personnel are on the ground in dangerous parts of the world, Americans could be forced to choose sides in other countries' internal conflicts, and the nation could become entangled militarily when its vital interests are not at stake.[78] For instance, if our nation builders are killed in the line of duty, will there be a US military response? It seems likely that Congress and the American people would demand military retaliation, and at that point, the United States could find itself facing a choice of either a spiraling military escalation (as in Vietnam) or a humiliating retreat (as in Somalia). Both of those prospects are troubling but may emerge if policymakers pursue a strategy of fixing failed states without broad public support.

The essence of strategy is effectively balancing ends, ways, and means. Squandering scarce resources on threats that exist primarily in the minds of policymakers is one indication that, as Richard Betts has pointed out, "US policymakers have lost the ability to think clearly about defense policy."[79] The entire concept of state failure is flawed. The countries that appear on the various lists of failed states reveal that state failure almost never produces meaningful threats to US national security. Further, attempting to remedy state failure—that is, embarking on an ambitious project of nation or state building—would be extremely costly and of dubious utility. Given these connected realities, policymakers would be wise to cast off the entire concept of state failure and to evaluate potential threats to US national security with a much more critical eye. SSQ

Notes

1. A very limited survey includes Gerald B. Helman and Steven R. Ratner, "Saving Failed States," *Foreign Policy* 89 (Winter 1992/93): 3–20; Robert I. Rotberg, ed., *State Failure and State Weakness in a Time of Terror* (Cambridge, MA: World Peace Foundation, 2003); Francis Fukuyama, *State-Building: Governance and World Order in the 21st Century* (Ithaca, NY: Cornell University Press, 2004); James D. Fearon and David D. Laitin, "Neotrusteeship and the Problem of Weak States," *International Security* 28, no. 4 (2004): 5–43; Stephen D. Krasner and Carlos Pascual, "Addressing State Failure," *Foreign Affairs* 84, no. 4 (July/August 2005): 153–63; Brent Scowcroft and Samuel R. Berger, "In the Wake of War: Getting Serious about Nation-Building," *National Interest* (Fall 2005): 49–53; Ashraf Ghani and Clare Lockhart, *Fixing Failed States: A Framework for Rebuilding a Fractured World* (Oxford: Oxford University Press, 2008); and John E. Herbst, "Addressing the Problem of Failed States: A New Instrument," *Prism* 1, no. 1 (December 2009): 21–26.

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65. David Kilcullen, *The Accidental Guerilla: Fighting Small Wars in the Midst of a Big One* (Oxford: Oxford University Press, 2009), 265. While there are distinctions between population-centric counterinsurgency missions and stabilization and reconstruction missions, we consider the two tasks as points on a spectrum rather than discrete categories.

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72. In Dobbins et al. (2007), the authors repeatedly refer to nation-building *success* but do not define the term. In the 2003 monograph, *success* is defined as "the ability to promote an enduring transfer of democratic institutions," which would seem both quite narrow and to conflate nation building with forced democratization. See ibid, 2.

73. The calculations are based on population and per capita GDP numbers from the *CIA World Factbook*. Figures are rounded to nearest billion. There were slight inconsistencies between the equations presented in some of the chapters of Dobbins et al. and the final example given in

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74. Dobbins et al. note in the context of Pakistan that "Considerations of scale . . . suggest that the transformational objectives of interventions in larger societies should be sharply restrained to account for the relatively much more modest resources likely to be available for their achievement." Dobbins et al., *Beginner's Guide*, 258.

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From Proliferator to Model Citizen?

China's Recent Enforcement of Nonproliferation-Related Trade Controls and its Potential Positive Impact in the Region

Stephanie Lieggi

The extent to which China assisted weapons of mass destruction (WMD) and missile programs in countries like Pakistan and Iran has been well documented. Part of China's past behavior stemmed from a fundamental disagreement with the Cold War structure of the nonproliferation regime; this ambivalence towards nonproliferation led China to undertake politically motivated proliferation activities that meshed with Beijing's foreign policy needs at the time. In later years, particularly after China's economy began to open in the 1980s, economic motivations also pushed Chinese entities to transfer WMD–related technologies abroad with little consideration for the ramifications on the nonproliferation regime.

As China's view of the international community (and its own place in it) changed, so too did its policy towards the proliferation of WMD. Much of this change was brought about by a mixture of factors touching on various issues facing Beijing, such as national security interests, economic stability, and international prestige. The factors that most affected China's actions included significant international (particularly US) pressure placed on Beijing in the 1990s to adopt stronger nonproliferation policies, Beijing's growing recognition that proliferation of WMD was detrimental to its own security interests, and concern within the Chinese leadership about the impact of China-based proliferation on Beijing's acceptance as a responsible member of the world community.

One of the areas within the nonproliferation regime where China has most notably changed in recent years is the field of nonproliferation-related trade controls, particularly export controls.[1] In the 1980s and

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1990s, China had very little in the way of controls on military-related trade; however, this began to change by the late 1990s. Between 1998 and 2002, China worked to revamp its export control system. Over the course of a few months in 2002, it promulgated a comprehensive set of export control measures for sensitive items related to WMD and other military programs. Most analysts agree that China's system has improved since the comprehensive rules were adopted and that the system, at least on paper, is in line with international supplier regime standards.[2]

Despite the legislative improvements, sales of sensitive dual-use items by Chinese companies to proliferating countries continued to concern the international community and the United States in particular. Many of the problems in the system are caused by insufficient Chinese capacity to enforce its controls. The weakest link in the Chinese export control system, as with many developing systems, is in its ability (and, some would say, political will) to enforce the restrictions that have been laid out in its legislation. This area of China's export control system has not traditionally been transparent, a fact that has added to uncertainties about Beijing's will with regards to nonproliferation-related trade control enforcement. Beijing has been hesitant to discuss violation cases publicly, leaving many questions unanswered about its enforcement activities.

Beijing has, however, made a few public announcements about export control violations since its system was revamped in 2002. Three such announcements made between 2006 and 2008 shed some light on the inner workings of China's export control enforcement, as well as on the challenges facing it. Each of these three cases is reviewed to assess the status of China's current enforcement capabilities. The three companies—Zibo CHEMET Equipment Company, Shanghai Smart Chemicals, Ltd., and Jilin Tumen Chemical Light Manufacturing Company—were punished for chemical-related exports, likely to Iran and North Korea. Additionally, a more recent case involving a seized shipment of dual-use materials at a border crossing with North Korea appears to show some improvements in China's risk assessment and contraband interdiction abilities. This case is also examined.

As the case studies show, China is slowly getting over the hurdles of establishing a viable export control system. Its progress in this field can be seen as a model for other countries—particularly those in Asia who face some of the same circumstances and challenges China had in the past decade. At the moment, while Beijing moves closer—however slowly—to

international standards in the area of nonproliferation, many countries in Asia have yet to even begin the process of strengthening their systems. The lack of capacity in many Asian countries has had negative implications on the nonproliferation regime. The A. Q. Khan and other proliferation networks have exemplified how Asian nations with weak nonproliferation-related controls can become key transshipment points for proliferators, or, as in the case of Malaysia and the Khan network, manufacturing hubs. Therefore, key areas will be identified so other Asian countries might learn from China's experience while building their own strategic trade control frameworks. In this way, China's system may prove to be an example for other countries in the region to selectively emulate when strengthening their own export control systems.

China's Proliferation History

From the establishment of the People's Republic in 1949 until the 1980s, China was highly suspicious of most arms control efforts, viewing them as attempts by the United States and the Soviet Union to strengthen their existing strategic superiority. Beijing was dismissive of arms control efforts in the early 1960s as it attempted to build its own nuclear arsenal. China, particularly under Mao, advocated that more nations should have nuclear weapons to act as a balance against the massive arsenals of the two Cold War superpowers.[3]

In the 1970s and 1980s, Beijing supplied nuclear weapons–related technology and designs to countries in the Middle East and South Asia. Although much of this trade was aimed at securing strong ties with countries of strategic interest to China, economics also played a role, as seen with the sale of heavy water to India in the 1980s.[4] China and Iran agreed in the mid 1980s to a comprehensive nuclear cooperation deal that included materials, equipment, and training purportedly for Iran's civilian nuclear program, a deal that likely mixed economics with China's foreign policy objectives.[5]

Pakistan's nuclear program benefited significantly from Chinese assistance, although this arrangement had technical benefits for both sides. This cooperation began in the early 1980s and saw China assist Pakistan with developing its nuclear weapons capabilities—this included the provision of fissile material and a nuclear weapon design.[6] According to recent accounts attributed to the now infamous A. Q. Khan, Pakistan supplied a centrifuge plant to China, which would have been a more sophisticated

form of enrichment than the Chinese had been using until that point. In return China supplied Pakistan with "drawings of the nuclear weapon, . . . 50 kg of enriched uranium, . . . 10 tons of UF6 (natural), and 5 tons of UF6 (3%)."[7]

Prior to China's opening up to the world, regulation-based trade controls for sensitive materials were practically nonexistent, in part because China's export capacity was highly restricted, with only a few state-owned companies allowed to export.[8] However, economic reforms in the early 1980s saw Beijing reduce state support for China's defense industries and open up the export potential for more companies and, thus, the potential for trade in sensitive materials. WMD–related exports—particularly missile related—became more prevalent as many state-owned enterprises (SOE) realized they needed to find foreign customers for their products to remain in business.

Coinciding with China's opening to the world economically, Beijing signed on to a bevy of nonproliferation regimes and became a member of many international organizations. These regimes include the UN Conference on Disarmament—joined in1980; the International Atomic Energy Agency (IAEA)—joined in 1984; the Nuclear Nonproliferation Treaty (NPT)—ratified in 1992; the Comprehensive Test Ban Treaty (CTBT)—signed in 1994 but not yet ratified; the Chemical Weapons Convention (CWC)—signed in 1993, ratified in 1997; and the Zangger Committee, the NPT–based nuclear suppliers' committee—joined in 1997. This marked a major break from China's past stance on the global nonproliferation regime, which Beijing previously considered to be a tool of the United States and the Soviet Union.

Despite the changes in China's acceptance of treaty-based regimes and its general policy shift on the importance of stemming further WMD proliferation, Beijing still questioned the validity of non-universal supplier regimes such as the Australia Group (AG), Nuclear Suppliers Group (NSG), and the Missile Technology Control Regime (MTCR), and raised concerns that these groups were cartels that hindered trade in items intended for peaceful uses. In a 1997 statement to the UN First Committee, China's disarmament ambassador, Sha Zukang, noted that export control regimes would "continue to impede the social and economic development of all countries, the developing countries in particular," and that "some" of the regime members (likely referring to the United States) "under the

pretext of preventing proliferation, interfere in and block the legitimate and normal economic and technological exchanges of the countries."[9]

In the 1980s, China transferred complete ballistic missile systems to Iran, Pakistan, Saudi Arabia, and Syria. However, under US pressure, it agreed in 1991 to abide by MTCR guidelines, which heavily restrict these types of transfers. For most of the 1990s, this pledge was loosely interpreted by Beijing, although by the middle part of the decade, it had stopped authorizing the transfer of complete missile systems. Missile-related dual-use technologies, however, remained a significant export commodity for many large Chinese defense companies.

Apart from missile and nuclear exports, the export of Chinese chemical weapons (CW)–related technologies was also a significant concern for the international nonproliferation community. The US government consistently raised concerns in the 1990s about CW–related transfers to Iran. From Beijing's perspective, this trade was legitimate because both China and Iran were members of the Chemical Weapons Convention (CWC) and thus allowed to trade in controlled chemicals. However, China bowed to US pressure in 1998 and agreed to add some chemicals controlled by the Australia Group—to which China was not a member—to its control lists.[10] Although this did not mean that these chemicals were barred from being transferred to Iran, it did infer that their export would gain more scrutiny by Chinese export control officials. This action was announced during a summit between then presidents Jiang Zemin and Bill Clinton, signifying how US influence played a direct impact on Chinese nonproliferation policies.[11]

In the late 1990s, earlier animosity towards export control regimes appeared to be transforming to one of hesitant acceptance. Although no change was obvious in public statements, Beijing was revamping its export control system to align with the multilateral supplier regimes. The first controls that were overhauled and improved were those dealing with nuclear materials, bringing the controls in line with Zangger Group guidelines in 1998 (and then NSG guidelines in 2002). China ultimately joined the NSG in 2004. Apart from improvements in China's CW–related export control system in 1995 to meet requirements of the CWC, as noted above, Beijing's chemical-related controls were more closely aligned with the Australia Group after its aforementioned 1998 additions.[12]

Nonproliferation-Related Controls in China since 2002

The biggest single change in China's nonproliferation policy came in the latter part of 2002, when it promulgated a series of export controls covering WMD and conventional military-related materials. The 2002 regulations, taken as a whole, brought China's export control system in line with international supplier regime norms.[13] The regulations were also significantly more transparent than in previous years. Prior to 2002, China's controls were opaque and based on unpublicized administrative directives.[14] The 2002 lists signified development of a de jure system, with the regulations and control lists published and clear lines of bureaucratic responsibility set forth.

While the 2002 changes were impressive, many in the US government chose to take a wait-and-see attitude, and many still questioned China's political will and ultimate nonproliferation objectives. In the earlier part of 2002, prior to the promulgation of the export controls by Beijing, the Bush administration published three separate sets of sanctions against Chinese companies.[15] The further issuance of these types of sanctions was not immediately hindered by China's release of new regulations. Between 2003 and 2006, the State Department imposed sanctions on about 20 Chinese entities, largely for questionable trades with Iran.

Many Chinese entities were sanctioned on numerous occasions during the Bush administration.[16] During this period, US officials began referring to these oft-sanctioned entities as "serial proliferators." Included in that group were powerful state-owned firms like China North Industries Corporation (NORINCO), China Great Wall Industry Corporation, China Aero-Technology Import and Export Corporation (CATIC), and China National Precision Machinery Import/Export Corporation (CPMIEC).

Although the sanctions created significant friction between the US and Chinese governments, they arguably created some incentives for a few Chinese companies who saw value in the US market. A good example of a company that put more emphasis on nonproliferation issues (and related US concerns) after suffering from continual sanctions was NORINCO. A large state-run defense manufacturer, NORINCO found itself the subject of sanctions eight times between 2002 and 2005. While some companies chose to simply complain about the US sanctions as unfair extraterritorial punishment by the Bush administration, NORINCO took a somewhat different approach. The company made significant effort to highlight its internal compliance program (ICP) and tout its nonproliferation credentials.

It worked with the Chinese Ministries of Commerce and Foreign Affairs to identify areas it needed to improve in its export control compliance system and brought in outside experts to help train its staff. Company representatives began to portray its ICP as a model for other large Chinese companies who may have been the subject of US sanctions in the past.[17] In 2008, US officials recognized NORINCO's efforts and predicted that "additional Chinese companies will seek to emulate the nonproliferation policies" of NORINCO.[18]

In another positive sign, Chinese legislation continues to improve, with regular updates in official regulations and lists and the gradual introduction of more advanced strategic trade control concepts like transshipment controls and brokering controls.[19] Additionally, Chinese government officials were increasing their outreach to industry and, as a result, companies were becoming more aware of the need for internal compliance programs. While these steps were significant, questions remained—both inside and outside China—about Beijing's ability to properly and efficiently enforce strengthened controls.

China has also increased its interaction with supplier regimes. It was accepted as a member of the NSG in 2004. In that same year, China put in a formal application to join this regime, but its application has been held up by concerns from the US and other governments about China's enforcement capabilities. Despite this, Beijing is in regular consultations with the MTCR, as well as with the Australia Group and Wassenaar Arrangement.

Major Players in China's Export Control System

Before examining the selected violation cases and the challenges China faces with its export control enforcement, it is important to spell out how the Chinese export control system functions so the delineation of responsibilities is clear. There are three main government bodies that deal directly with the enforcement aspect of Chinese export controls for dual-use materials. These are: the Ministry of Commerce (MOFCOM), the General Administration of Customs (GAC), and the Anti-Smuggling Bureau (ASB). The MOFCOM is primarily responsible for the licensing process, including scrutiny of the company, its past export behavior, and the nature and destination of the shipment. It is also primarily responsible for industry outreach programs and training.

The role of the GAC and local customs agents in the export control process is more hands-on, with the main responsibility of stopping and

searching suspicious shipments. The GAC, based on its analysis of the risk of a shipment (or at the suggestion of the MOFCOM or other relevant agencies) may send directives to its agents at the ports to stop and search shipments. Interdiction can also be instigated by local customs officials if they suspect a customs violation. In 2004, the MOFCOM and the GAC established an automated "emergency response system" that allows real-time communication between the different agencies and facilitates the interception of suspect shipments prior to export. Local customs officers also periodically conduct random inspections of shipments, and the GAC has laboratories that can be used to analyze suspect chemicals or other products.

The Anti-Smuggling Bureau is a law-enforcement entity under the direction of both the GAC and the Ministry of Public Security, although primarily answerable to the GAC. The bureau has dispersed offices throughout the country and agents in all Chinese points of entry. Their responsibilities mostly lie in the investigation of smuggling violations, and they work closely with Customs and the MOFCOM to collect evidence towards prosecution of a wide range of export control and other customs violations. They are the main decision makers as to whether or not violations are considered intentional or not, what kind of penalty scheme will be applied (generally administrative versus criminal), and what specific charges will be leveled against those found responsible.[20]

Apart from the three main enforcement agencies, there are other actors that have roles in the export control enforcement process. The Ministry of Foreign Affairs (MFA) will sometimes receive intelligence from foreign governments about violations that either have occurred or may occur, which the MFA will in turn pass along to Customs and the MOFCOM. While generally on the periphery for the bulk of duties involving export control enforcement, the MFA has a significant amount of authority in cases involving foreign policy considerations.[21]

Enforcement—the Weakest Link

Analyses of China's export control system since 2002 have overwhelmingly cited enforcement as its "weakest link."[22] Export control authorities in China have been making efforts to educate both the relevant government officials and industry about China's nonproliferation-related regulations. In an effort to improve China's enforcement capacity, Beijing has placed an increasing level of responsibility on industry to police itself.[23] However,

the Chinese system has not kept up with the human resources demands to maintain a proper licensing and enforcement apparatus. This is a particular problem within the MOFCOM's licensing department, which has only a handful of (8–10) staff members working on licensing issues, a number that has not increased since 2004.[24]

Although transparency with regards to control lists and regulations was significantly improved after 2002, Chinese officials are much less transparent about actual violations and punishments. While Chinese officials have often publicly described China's export control efforts as strong and effective, little quantitative evidence has been provided to allow for a complete analysis of these efforts.

China has publicly identified only a few violation cases since 2002. The first disclosure came in May 2004 when the MOFCOM announced—in very limited detail—that two companies had been punished for export control violations.[25] According to the official MOFCOM statement, two firms—a trading company in Jiangsu and a chemical company in Shandong—each were given fines of "millions of yuan" for violating export control regulations on missile-related commodities. Chinese officials often referred to this announcement as "proof" of Chinese enforcement, a stance that was met with significant skepticism by US officials and export control specialists. US officials pressed their Chinese counterparts to be more open about the enforcement, in part to show to the outside world that China was serious about nonproliferation and also to strengthen the deterrence effect on other Chinese companies.[26]

Publication of Cases, 2006–2008

Between 2006 and 2008, the MOFCOM released more detailed information on three new cases of export control violations. The cases involved three privately owned companies: Jilin Tumen Chemical Light Manufacturing Company, Shanghai Smart Chemical, Ltd., and Zibo CHEMET Equipment Company, Ltd. Each of these cases is described in more detail below. While the information released on these cases is an increase from previous ones, the details of the process the cases went through and the way the violations were discovered were not disclosed. Apart from brief announcements on the MOFCOM Web site, very little public documentation has been made available on these cases. Much of the additional information gained came from one-on-one interviews with Chinese officials with direct knowledge of the cases in question.[27]

Case 1: Jilin Tumen Chemical Light Manufacturing Company

On 26 May 2006, the MOFCOM published a statement announcing that Jilin Tumen Chemical Light Manufacturing Company had attempted to export 10 metric tons of sodium cyanide without a permit in May 2004. The shipment was confiscated in accordance with China's *Regulations on the Administration of Controlled Chemicals*, and the company was fined RMB50,000 (US$6,250).[28] According to one Chinese official, the interdiction of the shipment took place after the Chinese Foreign Ministry passed on a tip it received—apparently originating from US intelligence sources—to the MOFCOM and Chinese Customs.[29] Local customs officials stopped the shipment from exiting the country and sent samples of the chemical to a laboratory for analysis, where it was confirmed that the chemical in the shipment was sodium cyanide and not the substance originally declared on the company's custom forms. An investigation launched by local officials from Customs and the Anti-Smuggling Bureau discovered that the company had deliberately mislabeled the shipment as a noncontrolled chemical. The violation was not seen as serious enough to warrant criminal charges, so the company instead received administrative penalties.[30] However, the MOFCOM noted in its official announcement that the company did not pay the fine in full, and therefore authorities confiscated the "housing ownership certificates" of the responsible individuals.[31]

Although it was never officially confirmed that the destination was North Korea, the location of the interdiction points to the DPRK. Jilin province borders North Korea, and the points of entry in this province are major channels for trade between China and North Korea.[32] Apart from the large volume of legitimate trade occurring over these land crossings, smuggling of items and illegal immigrants over this border is rampant. The Tumen area has been identified as a major node for the trafficking of North Korean drugs, especially via railroads, to Chinese destinations farther south.[33]

The chemical in question also would lead one to assume that North Korea was the final destination. Sodium cyanide has a number of legitimate applications, including in gold mining and in the pharmaceutical industry, but is also a precursor for a number of chemical agents, including the blood agent hydrogen cyanide, and is therefore controlled under China's CW–related export controls and requires a license to be exported. According to some reports, North Korea has an extensive CW arsenal that includes hydrogen cyanide.[34]

The Jilin Tumen case was the first instance of a violation being publicized where specific information was given, such as the company name, exact nature of punishments, and the item triggering the violation. It is unclear exactly why the Chinese government decided to choose this case to release such information, but it may have had to do with a desire to publicize, particularly to Washington, its efforts to strengthen export control enforcement methods.

Case 2: Shanghai Smart Chemical Company, Ltd.

According to a September 2006 announcement by the MOFCOM, Shanghai customs officials stopped a shipment of 2,000 kg of potassium bifluoride in June 2006 that had been mislabeled as potassium borofluoric acid.[35] Unlike potassium bifluoride, the latter chemical is not controlled and does not require an export license. Potassium bifluoride is a dual-use chemical—civilian applications include the manufacture of wood preservatives or soldering agents and polymerization and glass etching. The chemical is also used in the manufacture of the nerve agents sarin and cyclosarin. It is listed on China's *Certain Chemicals and Related Equipment and Technologies Export Control List* and requires the issuance of an export license for export.

The shipment reportedly came to light after Chinese authorities received a tip from the US Embassy in Beijing. The MFA immediately informed both the MOFCOM and the GAC and advised them that the shipment should be intercepted. The GAC informed its agents at the port in Shanghai, and the shipment was successfully intercepted. The intelligence was most likely based on information gathered by US officials about previous shipments made by this company and not real-time information that this particular shipment was to occur.[36] The suspected destination of the materials was Iran.

After stopping the shipment, customs agents turned the investigation over to the local ASB. The bureau determined that the company knowingly mislabeled the shipment, but because of the relatively low level of seriousness of the case and the value of the shipment, decided to pursue only administrative penalties and not criminal smuggling charges.

The ASB fined the company RMB10,000 (about US$1,500). However, in this case, the MOFCOM decided to carry out a separate investigation, due in part to what it saw as a flagrant violation of licensing requirements, which was treated separately from the customs violations.[37] As a result, the

MOFCOM formally brought an additional legal case against the company for knowingly exporting a controlled item without a license, seeking a harsher punishment than had resulted from the original customs violation. After a year-long legal process, including appeals from the company, Shanghai Smart Chemical had its export privileges for sensitive materials and technology revoked for a period of two years.[38] This additional information was posted on the MOFCOM Export Control Web site in August of 2007.[39]

Case 3: Zibo CHEMET Equipment Company, Ltd.

The MOFCOM released an announcement in March 2008 that in late 2007 or early 2008, Zibo CHEMET had sent a shipment of glass-lined equipment to an unidentified end user without applying for an export license. Glass-lined equipment, such as reactors and tubing, can be used for legitimate chemical production but is also used for the manufacture of chemical weapons. This kind of equipment is listed on the Australia Group control list as well as the PRC *Certain Chemicals and Related Equipment and Technologies Export Control List*, and therefore requires an export license for legal export.

Founded in 1994, Zibo CHEMET is a medium-sized, privately owned company specializing in producing glass-lined reactors, storage tanks, piping, heat exchangers, filters, desiccators, and other processing equipment for use in the chemical industry. According to its Web site, Zibo CHEMET exports to clients worldwide, including in the United States, Brazil, India, Iran, the Republic of Korea, South Africa, and Taiwan.[40] The end user in this case would likely have been Iran; the company has been sanctioned by the US government four times for Iran-related trade.

As with the other cases mentioned above, the source of intelligence on the violation was the US Embassy, which gave detailed information about the transfer, including the company involved, date of shipment, and items transferred. Because the violation had already occurred and speedy interception was not a factor, the MFA sent the relevant information directly to the MOFCOM, which started an investigation into the violation.[41] Upon completion of the investigation, the MOFCOM imposed administrative penalties which led to a fine of RMB450,000 (about US$60,000)—the most substantial publicized fine imposed to date.[42] At the time of this announcement, there was also speculation that the MOFCOM was ready to revoke the company's license to export controlled items.

According to officials interviewed in the summer of 2008, Zibo CHEMET was actively working with the MOFCOM and other agencies to establish a viable internal compliance program. These efforts by the company appear to have helped mitigate the harsher penalties—like an export ban—that the MOFCOM was considering imposing on the company.

2009 Interdiction of DPRK–Bound Shipment

Another recent case publicized by Chinese official sources was the July 2009 interdiction of about 65 kg of vanadium at the border city of Dandong.[43] Vanadium is strategic metal used for hardening steel; this makes it important in the production of missiles, among other military items.[44] The shipment, which was confirmed to be headed for the DPRK, was discovered hidden in six fruit boxes. According to an announcement by the GAC, the shipment was discovered through the employment of a risk assessment mechanism, signaling that the discovery came about due to traditional investigative work by Customs and not outside intelligence.[45]

Little additional information has been released about this case; therefore, it is difficult to fully assess what enforcement efforts have been made apart from the seizure. According to the Customs announcement, the case was taken over by the ASB and is probably still under investigation. It is likely the MOFCOM would also be involved with this case, since the item in question would have required an export control license for shipment.

This seizure came a few months after the UN Security Council had increased sanctions on North Korea for its second nuclear test in May 2009. Some analysts interpreted this case as a signal that Beijing was taking a more proactive approach to enforcing the sanctions on the DPRK, which include a ban on trade in militarily sensitive materials.[46] It also, by some accounts, demonstrated China's increased capability to interdict illegal exports.[47]

Transparency in China's Enforcement Efforts Still Lacking

Although there have only been a few cases of export control violations and punishments published with any kind of detail, Chinese export control officials claim there are more cases that have not been publicized for various reasons. They have estimated that the number of ongoing cases at any given time range anywhere from five to 20, depending on

the year. According to an MFA official, in one case from 2008 of which the official could not disclose the particulars, a company was punished for the attempted export of nuclear-related graphite items, apparently to North Korea. This case was most likely not publicized due to the political sensitivity of nuclear issues in the early part of 2008, particularly in light of the progress in the Six-Party Talks at that time.[48] There have also been unpublicized criminal prosecutions for export violation–related crimes, with a MOFCOM official confirming that two individuals had received 8–9-year prison sentences.[49] Unfortunately, as these cases have not been published, officials were not willing or able to go into more detail about these violations.

China's hesitancy about publicizing cases of export control violation stems from a number of factors. According to officials, many companies are simply careless about their export compliance or unaware of the export control requirements of their products. In these cases, the MOFCOM tends to focus on helping the companies improve their ICPs without imposing punishments. Chinese officials prefer to keep details of inadvertent violations out of the public record to avoid causing damage to a domestic company's reputation or opening it up to sanctions from the United States.[50]

In instances where a company knowingly violates Chinese export controls, the cases often go unpublicized due to foreign policy considerations. Many serious export violations in China relate to transfers to Iran, which has a significant volume of trade with Chinese companies. Chinese officials admit privately that some entities in Iran receive increased scrutiny due to concerns that sensitive items may be used in WMD–related programs. However, due to China's longstanding relationship with Tehran, Chinese officials do not want to publicly expose policies that give the picture that exports to Iran are given "discriminatory" treatment.

An additional factor is concern about showing outward weakness in certain fields, particularly regarding law and order and corruption issues. Prior to recent changes in the export control system, authorities in Beijing consistently argued that companies were not "proliferating" but undertaking normal trade for peaceful purposes. As China became more cognizant of the problem of the export of sensitive dual-use items, this rhetoric lessened; however, Beijing remains hesitant to fully expose its lack of capacity with regard to dual-use trade controls.

Assessing Enforcement—A Work in Progress

The cases reviewed above give some indication of how the Chinese export control enforcement system works when faced with a violation. The interagency activities that have been developed appear to be well delineated and understood by the relevant actors. The MOFCOM and Customs continue to make improvements in information sharing and institutional knowledge compilation through the creation and maintenance of shared-access databases, which include information about licenses, exporting companies, and past shipments.[51]

Based on the case studies, it appears the Chinese system continues to prefer administrative over criminal penalties. This to some extent can be explained by the fact that under China's current system, export control violations are not necessarily seen as "criminal offenses" but as "civil offenses."[52] China's export control system is based on the very general Foreign Trade Law and does not consist of a separate, overarching export control law. This means that the only criminal proceedings that can be brought against export control violators are based on anti-smuggling charges or in cases where the act is seen as seriously impacting state security. This was perhaps the case for the vanadium smuggling episode in July 2009, which was directly related to a UN Security Council resolution, but is unlikely to be relevant for most export control violations. According to MOFCOM officials, efforts are being made to draft an overarching export control law, similar to the US Export Administration Act, but it is unclear when that process will be completed.

Even without criminal proceedings, Chinese authorities are looking more closely into using fines as a viable deterrent to exporters. MOFCOM and customs officials are slowly increasing the level of penalties given to companies—as was evident in the Zibo CHEMET case—and are recognizing the weight of imposing export bans on companies that violate export control laws. Even more than fines, export bans can decimate a company's profitability in industries that are heavily export driven.

Beijing has become more proactive in using information garnered from foreign sources for starting domestic investigations. Previously, US authorities expressed frustration about the inconsistency with which Chinese authorities used information passed by Washington about potential proliferation activities of Chinese companies. As noted in the examples above, however, Chinese authorities used information garnered from US

authorities as the basis for domestic investigations that resulted in punishments for the companies involved.

Although Beijing's willingness to use the information from outside sources is a positive sign to some extent, it also signals continuing problems with its efforts to detect illicit exports on its own. Chinese authorities have admitted that the domestic intelligence capacity for detecting these kinds of illicit transfers is lacking and confirmed that efforts are being made to remedy this. Export control officials, particularly from Customs, have focused on improving their risk-assessment capabilities as a means of improving their ability to detect illegal exports.[53] The 2009 interdiction case may show some evidence that these efforts are paying off, as there was no indication that the seizure was based on foreign intelligence.

One notable issue the Chinese export control system appears unable or unwilling to tackle, however, is control of the activities of large, politically connected, state-owned enterprises (SOE). In looking at the case studies above, export controls appear to disproportionately impact the business practices of private enterprises. Although some large SOEs, like NORINCO, have reacted positively by adding internal compliance programs to their business models, other SOEs have effectively avoided this. Without effectively dealing with the political influence of SOEs, China's export control system will continue to have only marginal success in halting sensitive exports.

Although there is a long way to go before the Chinese export control system can be described as fully transparent, the recently publicized examples of companies that have been caught in the act of shipping prohibited items illegally is notable. While these examples only give a narrow snapshot of the incidents and outcomes, they may signal a trend towards more transparency regarding Beijing's enforcement of export control laws.

Learnable Moments—Can China's Export Control System be a Model for the Region?

Similar to China's pre-2002 export controls, many countries in Southeast Asia have systems that are weak and undefined.[54] Until recently, nonproliferation-related trade controls have not been a significant priority for these countries.[55] Similar to Beijing's earlier views, countries in the region believe export controls strengthen the supplier country's economies while denying the developing world much-needed technology for economic development. States in the region have also argued that their lack

of domestic WMD-relevant programs means that they cannot produce items sensitive enough to justify creating stringent trade control systems. However, the changing state of the world economy and global security is making the establishment of sufficient controls throughout Asia a growing priority.[56]

Revelations about Southeast Asian connections in known illicit WMD trafficking networks, both as production nodes and as transshipment points, have highlighted the importance of creating viable nonproliferation-related trade controls in the region. For example, as part of the A. Q. Khan network's efforts to supply Libya with a nuclear weapons program, a production node was established in Malaysia. The Malaysian owners of the facilities and their workers thought that the contract they were filling was for equipment related to the oil and gas industry; however, under the direction of a number of Khan's associates, the items being produced were actually centrifuge components.[57] As technological capabilities within the region—particularly within Association of Southeast Asian Nations (ASEAN) member states—expand, so too does their capacity to be a source of sensitive dual-use equipment. Possibly even more urgent than controls on exports is the strengthening in the region of controls on transshipment and transiting cargo. ASEAN countries have some of the largest ports in the world, and many have been used as transshipment hubs for WMD-related trafficking.[58]

Asian complacency on nonproliferation-related trade controls has been challenged by the changing nature of international security. The issue of nonstate actors and their ability to gain access to WMD-related materials has been an increasing fear, and a number of international mechanisms have been established to cope with this threat to global security. One such mechanism is UN Security Council Resolution 1540 (UNSCR 1540), which was adopted in 2004 and is binding on all UN member states. This resolution mandates all states to "establish, develop, review and maintain appropriate effective national export and transshipment controls over" WMD and related dual-use items.[59] Southeast Asian nations have been somewhat suspicious of UNSCR 1540, seeing it as an unfunded mandate forced upon them by the supplier states.[60] However, as part of the resolution, states are encouraged to assist others with creating systems that can comply with the resolution. The United States and Japan have been particularly active with 1540-related training in Southeast Asia, which has helped wear down some of the resistance in the region to this resolution.

China has also been somewhat active in promoting UNSCR 1540 in the region. In July 2009, it hosted the ASEAN Regional Forum's (ARF) first inter-sessional meeting on the implementation of UNSCR 1540.[61] China also hosted a 1540-related meeting for Asian countries in July 2006.[62] Within these conferences, Chinese officials would have been able to share trade control–related best practices and experiences with other officials from the Asia Pacific region.[63] China has been otherwise inactive in promoting strengthened nonproliferation-related trade controls in the region.

The challenge of strengthening nonproliferation-related trade controls in Southeast Asia shares a number of commonalities with the problems China's system faced in the past and, in some regards, continues to face. Issues of political will, conflicting priorities, economic considerations, and insufficient bureaucratic capacity can be identified both in China's export control history and in the current systems within ASEAN. The process that Beijing went through to reach its current capacity could therefore be seen as a loose model for others in the region to follow. There is no "one size fits all" approach for developing an export control system, and each system needs to be localized for an individual state's domestic situation, such as level and nature of industrial development, governmental structure, level of democratization, and prevalence of rule of law. Even bearing this in mind, the process China went through could be particularly instructive to the growing economies of ASEAN.

As noted previously, China and many ASEAN states share a historic skepticism of multilateral export control regimes,[64] so the process of strengthening political will in Southeast Asia can be helped by looking at how this process took place in China. As with Beijing, some governments in Southeast Asia are slowly recognizing that nonproliferation issues have a direct impact on their domestic economic and security needs. Some of the pressure to change has come from the international community, but there are also motivations stemming from domestic economic needs. One such motivation is the need to be seen by the outside world as a trustworthy trading partner to gain access to high-tech equipment necessary for industrial development.

Some change in attitude has been evident in Southeast Asia recently, and a number of countries have begun to establish nascent systems, mainly in reaction to pressure to implement UNSCR 1540. While accommodations need to be made for the different political situations of the states involved,

Chinese export control officials—who have seen their system develop rapidly over the last decade—would be a good source of information and best practices for ASEAN officials facing the daunting task of drafting and implementing relevant regulations and control lists.

Following the July 2009 ARF meeting, a body within the forum was created to specifically focus on WMD threats and the implementation of 1540.[65] Through this type of forum (of which China is a participant), Beijing could effectively provide customs-to-customs technical assistance, host relevant officials of countries in the midst of developing their systems, and consult with officials in other countries on the development of regulations and control lists.

China, however, has been slow to present itself as a potential model for its neighbors. Despite Beijing's willingness to host 1540 conferences, its foreign policy has historically focused on noninterference with the domestic affairs of other nations and has followed a policy in the last decade aimed at reassuring its neighbors that it will not play a hegemonic role in the region.[66] Additionally, Beijing's lack of initiative in this area can be seen as a result of the newness of its own trade control system and a continuing lack of capacity. Unlike countries with notable outreach efforts in this field—such as the United States and Japan—China's trade control system is relatively underfunded and under resourced.[67] The available resources are focused primarily on running the domestic system, with little left over for outreach efforts towards other Asian countries. This situation is not likely to change until officials in Beijing see a notable economic or diplomatic benefit to taking a more proactive approach towards strengthening trade controls in the region.

China–ASEAN economic cooperation is significant and increasing rapidly. Beijing is ASEAN's fourth largest trading partner, with bilateral trade at about US$231 billion in 2008.[68] Bilateral cooperation and economic integration will likely increase since the China–ASEAN Free Trade Agreement came into effect on 1 January.[69] This increasing strength in bilateral ties is not just an avenue to facilitate Chinese assistance in the improvement of nonproliferation-related trade controls within ASEAN, but may also give Beijing an increased incentive to be proactive in this area. As larger economies—like Japan and the United States—have discovered, a country's ability to control the end use of its sensitive exports depends not just on its own national export control system, but also on those of its major trading partners. For Beijing to truly feel confident about its nonproliferation-

related controls, it must also know that its trading partners are not allowing the leakage of Chinese-made technology to proliferation-risky destinations.

Conclusion

China's progress in strengthening its domestic controls has been impressive over the last few years, although there is still work to be done. Foreign policy concerns—particularly regarding bilateral relations with Iran—remain a challenge to overarching nonproliferation objectives. Internal challenges to the system also remain, such as the tendency for larger SOEs to avoid punishment (at least openly) and the continued hesitancy within the Chinese system to publicize violations. These domestic challenges will continue to have a negative effect on the ability of China's export control system to use its domestic industry as the first line of defense in trade controls and to police itself. As highlighted by the cases above, China's internal intelligence gathering remains weak, even though interdicting vanadium in July 2009 pointed to improved risk-management techniques. It may also point to increased political will in Beijing to control the spread of sensitive materials, although without more transparency in the system, it is difficult to fully assess the extent to which China's leadership embraces the importance of nonproliferation-related controls.

The export control violation cases examined do demonstrate that enforcement and interagency processes are improving in China. They also show that an effective system can be created in a relatively short time. This can be a powerful model for other regional players to follow when moving forward with their own nonproliferation-related trade controls. China would clearly benefit from assisting its trading partners in the region with strengthening their trade control systems. Beijing can only control the dissemination of its WMD-related technology, particularly dual-use items, if its trading partners in ASEAN are capable of controlling their own exports of sensitive materials. Without this assurance, Chinese-origin technology and equipment could still reach proliferators or dubious nonstate actors.

Considering China's apparent disinterest at the moment in cooperative activities with the nascent export control systems in the region, the likelihood of Beijing taking a proactive approach to building regional capacity in the field should remain small in the near future. However, this hesitancy may change as China's own system continues to improve and Chinese officials recognize the value of having trading partners with stronger trade

control systems. At that point, Beijing may see a definite benefit in being a "model" citizen in the global nonproliferation regime. SSQ

Notes

1. The more general term *nonproliferation-related trade controls* is used here except when speaking specifically about controls on the export of sensitive WMD and missile-related commodities (i.e., export controls). The term *nonproliferation-related trade controls* and the increasingly used term *strategic trade controls* are generally synonymous; they include export controls as well as a myriad of other trade controls covering brokering, transit, and transshipment, as well as port and maritime security mechanisms.

2. International supplier regimes include the Australia Group (for chemical and biological –related materials), the Nuclear Suppliers Group, the Missile Technology Control Regime, and the Wassenaar Arrangement (for conventional military and related dual-use goods).

3. Evan Medeiros, *Reluctant Restraint: The Evolution of China's Nonproliferation Policies and Practices, 1980–2004* (Palo Alto, CA: Stanford University Press, 2007), 33–35.

4. "China's Nuclear Exports and Assistance to South Asia," *China Profiles*, Nuclear Threat Initiative (NTI) Web site, http://www.nti.org/db/china/nsaspos.htm. China provided India with 130–150 metric tons of heavy water between 1982 and 1987; these transfers were without IAEA safeguards.

5. Medeiros, *Reluctant Restraint*, 59. Medeiros notes that, although the cooperation would be subject to IAEA safeguards, "It raised serious concerns in Washington, where policy makers were acutely sensitive to Iran's nuclear potential."

6. "China's Nuclear Exports and Assistance to South Asia."

7. Simon Henderson, "Investigation: Nuclear scandal—Dr. Abdul Qadeer Khan," *Sunday Times* (London), 20 September 2009, http://www.timesonline.co.uk/tol/news/world/asia/article6839044.ece.

8. Jonathan Davis, "Export Controls in the People's Republic of China, 2005," Center for International Trade and Security Web site, February 2005, http://www.uga.edu/cits/STC/China/CITS%20China%20Final.pdf.

9. "H. E. Mr. Sha Zukang, Ambassador for Disarmament Affairs of the People's Republic of China, Statement at the First Committee of the 52nd Session of the United Nations General Assembly," 14 October 1997, NTI, http://www.nti.org/db/china/engdocs/sha1097.htm. Sha also noted that regime members adopted a double standard with regard to trade: "On the one hand, they exert pressure and even impose or threaten to impose sanctions against other countries under the name of nonproliferation. On the other hand, they themselves engage in massive sales of advanced weapons and equipment to sensitive regions, infringing upon the national sovereignty of other countries and damaging regional peace and stability." This was a clear reference to the issue of US arms sales to Taiwan. This issue was cited often in the 1990s as a sign that the United States was somewhat hypocritical about its export control policies—expecting China to respond when Washington saw its interests threatened vis-à-vis Chinese assistance to Iran or Pakistan, but not heeding Beijing's concerns about US military sales to Taiwan.

10. "Australia Group (AG)," *China Profiles*, NTI, http://www.nti.org/db/china/agorg.htm.

11. Jing-dong Yuan, Phillip C. Saunders, and Stephanie Lieggi, "Recent Developments in China's Export Controls: New Regulations and New Challenges," *Nonproliferation Review* 9, no. 3 (Fall–Winter 2002): 153–67, http://www.cns.miis.edu/npr/pdfs/93yuan.pdf.

12. "China's Chemical Export Controls," *China Profiles*, NTI, http://www.nti.org/db/china/chmexcon.htm.

13. For a full discussion of these controls and what they covered, see Yuan et al., "Recent Developments in China's Export Controls."

14. Davis, "Export Controls in the People's Republic of China, 2005."

15. "U.S. Nonproliferation Sanctions against China and/or Chinese Entities," *China Profiles*, NTI, updated October 2007, http://www.nti.org/db/china/sanclist.htm.

16. These sanctions were made under the authority of a number of US laws and executive orders; the relevant lists can be found via the State Department Web page entitled "Nonproliferation Sanctions" at http://www.state.gov/t/isn/c15231.htm.

17. "Norinco Delegation Visits United States to Discuss Export Control Issues and Sanctions; Talks with CNS Researchers," *International Export Control Observer*, May 2006, 21–23, http://cns.miis.edu/observer/pdfs/ieco_0605e.pdf.

18. Patricia McNerney (principal deputy assistant secretary of state for international security and nonproliferation), "China's Nonproliferation Practices," Testimony before the US–China Economic and Security Review Commission, 20 May 2008, http://www.uscc.gov/hearings/2008hearings/written_testimonies/08_05_20_wrts/08_05_20_mcnerney_statement.php.

19. Stephanie Lieggi, "China Strengthens Nuclear-Related Export Controls," *WMD Insights* (April 2007), http://www.wmdinsights.com/I14/I14_EA3_ChinaStrengthens.htm.

20. Discussions with MOFCOM and GAC officials, June and July 2008.

21. Discussions with MFA officials, June and July 2008.

22. See Davis, "Export Controls in the People's Republic of China, 2005"; Evan Medeiros, *Chasing the Dragon, Assessing China's System for WMD-Related Goods and Technologies* (Santa Monica, CA: RAND, 2005), http://www.rand.org/pubs/monographs/2005/RAND_MG353.pdf; and Jennifer C. Bulkeley, "Making the System Work: Challenges For China's Export Control System," Nonproliferation Review 11, no. 1 (Spring 2004): 145–69.

23. Lieggi, "China Strengthens Nuclear-Related Export Controls."

24. Discussions with MOFCOM officials.

25. Statement was originally available on the MOFCOM Web site, http://www.mofcom.gov.cn/article/200405/20040500225170_1.xml; however, the link is currently inactive. See also "Two Chinese Companies Fined for Violating Regulations on Missile Export Control," *Asian Export Control Observer*, June 2004, 10, http://www.cns.miis.edu/observer/pdfs/aeco_0406.pdf.

26. Discussions held between US and Chinese participants at the Sixth US–China Conference on Arms Control, Disarmament, and Nonproliferation in Washington, DC, June 2006. The full report of the conference is available at http://cns.miis.edu/archive/cns/programs/eanp/research/uschina6/index.htm.

27. Many of the interviews of Chinese officials cited herein were conducted by Jasper Liao, CNS research graduate assistant, in Beijing in summer 2008. Both Mr. Liao and the author held discussions with officials from the ministries of commerce and foreign affairs, as well as GAC in the spring and summer of 2008.

28. "吉林省对违规出口氰化钠公司实施行政处罚" ("Jilin Province Imposes Administrative Penalties on a Company that Unlawfully Exported Sodium Cyanide"), MOFCOM Web site, 26 May 2006, http://exportcontrol.mofcom.gov.cn/aarticle/ar/200605/20060502297099.html.

29. Discussions with Chinese officials, June and July 2008.

30. Ibid.

31. "Jilin Province Imposes Administrative Penalties." A "housing ownership certificate" (房屋所有权证书) can be roughly likened to a deed on private property.

32. "N. Korean Exports to China's Jilin Province Top $100 MLN in 2004," *Asia Pulse*, 14 February 2005, in Lexis-Nexis.

33. "PRC 'Secret' Report Gives Details of DPRK Drug Smuggling in China," *Taikitachosen Chugoku Kimitsu Fairu* in Japanese, 15 September 2007, 64–85, from Open Source Center (OSC), https://www.opensource.gov.

34. See "North Korea Country Profile: Chemical Overview," NTI Web site, updated June 2009, http://www.nti.org/e_research/profiles/NK/Chemical/index.html.

35. "上海海关对上海智通公司违规出口敏感物项实施行政处罚" ("Shanghai Customs Imposes Administrative Penalties on Shanghai Smart Co. because of Unlawful Export of Sensitive Materials"), MOFCOM Web site, 9 September 2006, http://exportcontrol.mofcom.gov.cn/aarticle/ar/200610/20061003349374.html.

36. Discussions with Chinese officials.

37. Ibid.

38. Ibid.

39. "Shanghai Customs Imposes Administrative Penalties."

40. See company Web site, http://www.chemet.net/en/main.asp.

41. Discussions with Chinese officials.

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47. "Military commentator hails China's seizure."

48. Discussions with Chinese MFA official, July 2008.

49. Discussions with MOFCOM officials.

50. Ibid.

51. Discussions with Chinese officials.

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53. Discussions with GAC official, June 2009.

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62. "Implementation of United Nations Security Council Resolution 1540" (Presentation by Wu Haitao, deputy director-general, Department of Arms Control and Disarmament, China's Ministry of Foreign Affairs, at the NATO seminar on proliferation issues, Vilnius, Lithuania, 18 April 2007), http://www.mfa.gov.cn/eng/wjb/zzjg/jks/kjfywj/t317221.htm.

63. Ibid.

64. It should be noted that when discussing export control systems in Southeast Asia, Singapore is a notable exception. Unlike other ASEAN member states, Singapore has a viable nonproliferation-related trade control system and works closely on nonproliferation issues with supplier states and multilateral export control regimes.

65. Lawrence Scheinman, "Implementing United Nations Security Council Resolution 1540: The Role of Regional Organizations" (Presentation at Resolution 1540: At the Crossroads, October 2009), http://www.stanleyfoundation.org/publications/working_papers/LawrenceScheinman1540PPT.pdf.

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Bush vs. Obama Detainee Policy Post–9/11

An Assessment

Leonard Cutler

The record of the Bush administration in the aftermath of 9/11 includes the overthrow of the Taliban regime in Afghanistan, the disruption of al-Qaeda's power infrastructure, and the capture or killing of some of the terrorist organization's worst actors. However, on balance, it also included a violation of international as well as domestic legal standards related to torture, subjecting alleged terrorist prisoners to arbitrary indefinite detention and inhumane and degrading treatment; creating secret CIA-run prisons abroad; using unlawful rendition; and employing extensive international and domestic warrantless surveillance without court supervision. As a result, the Bush administration adversely affected our relationship with other nation states and defeated the goal of reducing anti-American sentiment in the global arena.[1]

After a brief review of detainee policies in the Bush administration, this article will focus on Obama administration policies and to what extent they have continued or reversed Bush-era policies. Specifically, attention will be given to the following issue areas: closure of the Guantanamo Bay detention facility, the Military Commissions Acts of 2006 and 2007, and prolonged detention of suspected terrorists.

What will be evidenced is that several Obama administration detainee policies are closer to Bush administration policies, as modified and impacted by Congress and the Court, than was originally anticipated when this president's term began in January 2009. This is due to policies and decisions Obama inherited from his predecessor which were not readily reversible, in part because they were institutional executive branch policies that preceded either president, and in part due to the learning process that

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President Obama has undergone transitioning from a member of the US Senate, to presidential candidate, to chief executive and commander in chief of the United States.

That said, there are substantial and notable distinctions between the Bush and Obama administrations' approaches to detainee policy that could have significant impact on national security policy for the foreseeable future. Most importantly is President Obama's apparent commitment to consult with Congress on detainee policy issues as well as his determination to have his administration function in a more transparent manner than his predecessor. From a practical perspective this makes sense, since the president needs the support of Congress, the Court, and the public to effectively undertake the war against terrorists. The president must fulfill that commitment not only in word but more importantly in action.

Of principal concern with both the Bush and Obama administrations' detainee policy post–9/11 is their position regarding indefinite or prolonged detention. It will be demonstrated that there is no substantive difference with respect to their views that this policy is essential to protecting and preserving the national security interests of the United States, and that there does not exist a need for Congress to address this matter given the implicit authority provided to the president in the *Authorization for the Use of Military Force* (*AUMF*). Regardless of whether or not such power is inferred in the *AUMF*, it is a fatally flawed approach that does not properly respect constitutional as well as international law considerations and lacks legitimacy and justification with respect to pursuing effective counterterrorism policy.

Prescription for Policy

In the immediate aftermath of the horrific devastation of 11 September 2001, Pres. George W. Bush addressed a joint session of the United States Congress in which he called for retaliatory action to be taken against the terrorist perpetrators who committed these unprecedented attacks on American soil.[2] The administration determined that the loss of nearly three thousand lives could be directly attributed to al-Qaeda terrorists led by Osama bin Laden, who were aided and abetted by the Taliban government of Afghanistan.

The Congress, for its part, passed the *Authorization for the Use of Military Force*[3], which enabled the president to take all necessary and appropriate

measures to capture and punish those individuals who were in any way involved in the assault. Among other things, it authorized the president:

> Under the Constitution to take action to deter and prevent acts of international terrorism against the United States . . . [and] to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001 or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.[4]

President Bush issued a military order which created military commissions and a process and procedures for dealing with the detainees who were captured and taken into custody after the United States invaded Afghanistan as part of Operation Enduring Freedom in October 2001.[5] John Bellinger, former legal advisor to the National Security Council and later principal legal advisor to the secretary of state, remarked in a 2008 interview that it was a "small group of administration lawyers who drafted the president's military order establishing the military commissions, without the knowledge of the rest of the government, including the national security advisor, secretary of state or even the CIA director."[6] Several hundred captured prisoners, who were under the jurisdiction of the US military, were transferred to Guantanamo Bay, Cuba, by directive from Secretary of Defense Donald Rumsfeld for extended interrogation by government officials and determination as to whether they could be held indefinitely as designated unlawful enemy combatants.

The administration had a clear strategy as to why it selected the Guantanamo Bay site to keep the alleged terrorists who were apprehended by the government in undertaking its war on terror. Since the earliest part of the twentieth century when the United States acquired jurisdictional treaty rights to Guantanamo Bay,[7] the position taken by successive presidential administrations was that aliens held in federal custody lacked both statutory and constitutional habeas corpus rights because the nation of Cuba maintained territorial sovereignty over that island.[8] For the Bush administration this interpretation meant that none of the 500-plus detainees were entitled access to the US court system to determine why they were being held indefinitely without charge, and furthermore, that the US government had no affirmative obligation to provide traditional procedural and substantive due process rights to the detained prisoners.[9]

Additionally, since al-Qaeda, as a terrorist organization, did not observe the rule of law and the generally accepted principles of the laws of war, the Bush administration concluded that US treaty requirements of the Geneva conventions related to treatment and protection of prisoners of war did not apply.[10] The president therefore issued an executive order denying any legal protections in the conventions to either the al-Qaeda detainees or the captured Taliban prisoners who were involved in aiding and abetting the enemy. The order generated considerable debate, pitting the State Department against the Justice Department, the Department of Defense, and the Office of the Vice President.

Lawrence Wilkinson, senior aide and chief of staff to Secretary of State Colin Powell, observed that the executive order and legal memorandum supporting it were crafted by David Addington, chief of staff to Vice President Cheney, and was "blessed by the Office of Legal Counsel (OLC), and then given to Cheney, and Cheney gave it to the President, and the President signed it."[11] As a result of this determination, for several years there was created a giant legal black hole of minimal protections, minimal law, and questionable legitimacy for the administration's actions at Guantanamo.

Additionally, in August of 2002, Justice Department lawyers Jay Bybee and John Yoo prepared a secret memorandum which set out the limits on coercive interrogation by US officials at Guantanamo. The memo abandons international standards and redefines the meaningful threshold limits for the application of torture techniques to be employed by the government. William Haynes, legal counsel for the Department of Defense, prepared a memo for Secretary Rumsfeld's approval, which permitted the use of aggressive interrogation techniques by the military at Guantanamo that included:

- prolonged solitary confinement, including isolation in total darkness;
- deliberate exposure to extremes of heat and cold;
- threats of attack from unmuzzled dogs;
- forced nakedness;
- short shackling in painful stress positions for extended periods;
- denial of food and water; and
- repeated body cavity searches.

Although these memoranda were eventually rescinded after serious objections and backlash from within the administration, the policies and

practices continued to be influenced by the philosophy developed by the Bybee-Yoo strategy.[12]

When President Bush signed into law the Detainee Treatment Act (DTA),[13] which was enacted by Congress in 2005 to prohibit the inhumane treatment of prisoners, the president appended a "signing statement" laying out his own interpretation and indicated that he was not bound by the law in his enforcement of the provisions,[14] and Congress in 2006, with the passage of the Military Commissions Act (MCA),[15] authorized the Central Intelligence Agency (CIA) to continue to use harsher interrogation methods than those permitted to the military, which was governed by the Army Field Manual.[16] In 2008, despite the fact that Congress passed legislation that would have forced the CIA to comply with the humane treatment standards in the Army Field Manual, President Bush vetoed that law, insisting that the CIA must be allowed to operate by its own rules.

In interviews granted in the last month of the Bush administration, Vice President Cheney reaffirmed the position that "you can have a robust interrogation program with respect to high-value detainees."[17] He sharply distinguished between the

> different elements of . . . or issues that are often at times conflicted and all joined together and balled up. People take Guantanamo and Abu Ghraib and interrogation of high-value detainees and . . . characterize it as torture policy. . . . [S]omething like Abu Ghraib was not policy. It was, in fact, uncovered and then exposed by the military. Guantanamo, I believe, is a first-rate facility. It's one we absolutely needed and found essential. If you're going to evaluate how it's functioned, the policy that we adhere to at Guantanamo basically is the US Army Field Manual.[18]

With respect to high-value detainees and enhanced interrogation techniques employed by the CIA under its jurisdiction, the vice president said that such procedures "applied only to a few people who were individuals like Khalid Sheikh Mohammed, the mastermind of 9/11, who we believe possessed significant intelligence about the enemy, about al-Qaeda, about their future plans, about how they were organized and trained and equipped, and where they operated."[19]

He added that fighting the war on terror demanded that our nation acquire good intelligence on the enemy. There were a total of

> about 33 who were subjected to enhanced interrogations, only three of those were subjected to waterboarding—Khalid Sheikh Mohammed, Abu Zubaydah, and a third, al Noshiri. Those three guys, and I don't believe it was torture. We spent a great deal of time and effort getting legal advice, legal opinion out of the Office

> of Legal Counsel, from the Department of Defense, as to where the red lines were out there in terms of this you can do, this you can't do. The CIA handled itself very appropriately. The legal opinions were sound, the techniques were reasonable in terms of what they were asking to be able to do. And I think it produced the desired result. I think it's directly responsible for the fact that we've been able to avoid or defeat further attacks against the homeland for seven and a half years.[20]

Closing Guantanamo Bay Detention Facility

Even prior to his inaugural, President-elect Barack Obama said in an interview that he planned to issue an executive order during his first week in office closing the Guantanamo Bay detention facility. However, he added that:

> it is more difficult than a lot of people realize and we are going to get it done but part of the challenge that you have is that you have a bunch of folks that have been detained, many of whom may have been very dangerous who have not been put on trial. . . . [C]losing Guantanamo within the first 100 days is a challenge. I think it's going to take some time and our legal teams are working in consultation with our national security apparatus as we speak to help design exactly what we need to do. We are going to close Guantanamo and we are going to make sure that the procedures we set up are ones that abide by our Constitution.[21]

The Bush administration publicly advocated the closure of Guantanamo as early as 2006. However, as is demonstrated from the remarks of Secretary of State Condoleezza Rice below, there were recognizable concerns to be addressed:

> The United States doesn't desire to keep Guantanamo in being any longer than it's needed because we don't want to be the world's jailer. That's not the United States because it's not U.S. policy.
>
> But we have to recognize that Guantanamo is there for a reason. It's there because we captured people on battlefields, particularly in Afghanistan but sometimes, frankly, on the battlefields of our own democratic societies, who were either plotting or planning or actively engaged in terrorist activities.
>
> . . . there are some people who cannot either be safely released to their countries . . . and there are people for whom the value of the information that they have is still relevant to the fight against terror.
>
> But I would just ask: What would be the alternative? If the alternative is to release people onto the streets so that they can do harm again, that we're not going to do. If the alternative is to try people, that we want to do. And we are looking for the means to do that, including the fact that the fate of military commissions is being reviewed by the U.S. Supreme Court.

> . . . I want to assure you, the reasons for Guantanamo have to do with the necessities of keeping very dangerous people off the streets.[22]

In his second day in office, President Obama issued an executive order directing that the Guantanamo Bay military prison "shall be closed as soon as practicable, and no later than 1 year from the date of the order."[23] The president recognized that simply closing the facility would not appropriately serve the interests of justice. The new administration had to determine the appropriate disposition of the remaining detainees who were held there, some for a period for more than six years. The president stressed that the closure would be consistent with national security and foreign policy interests as well as international concerns.

The order called for an immediate review of all the detainees held at the naval base to determine whether they should be transferred, released, or for that matter prosecuted. Early indications from the European Union (EU) were encouraging in that several EU members were likely to accept some former prisoners who were no longer designated enemy combatants. Many of the countries said that their acceptance would be handled on a case-by-case basis.[24]

The order further stipulated that the cases of individuals detained at Guantanamo determined not to be approved for release or transfer would be evaluated to determine whether they should be prosecuted for offenses they may have committed, including whether it was feasible to prosecute them in an Article III court established pursuant to the US Constitution.[25] The review required identification and consideration of legal, logistical, and security issues related to the transfer and potential prosecution of the detainees to facilities in the United States.

Approximately 240 detainees remained at Guantanamo when President Obama issued his executive order calling for the closure of the prison facility. Of that group an estimated 150 individuals were eligible for release or transfer to a foreign home or host nation. The balance was subject to determinations as to whether and where they were to be prosecuted. About 50 detainees from such countries as China, Algeria, Tunisia, and Libya were potential targets of torture or severe physical and/or mental abuse if they were returned home. Albania, one of the few Muslim states in Europe, accepted five of the Chinese Muslim Uighurs on humanitarian grounds. If they were returned to their home state, they would have been executed for committing alleged treason against the Chinese government.[26]

On 21 May 2009, President Obama delivered a major national security speech at the National Archives, which focused on closing the Guantanamo Bay facility and what to do about the detainees still held there. He stated that some would be tried in federal courts for violations of federal law; a second category would be tried by reconstituted military commissions for violations of the laws of war; a third category had been ordered released by the courts; a fourth category included those who could be safely transferred to other nations; and the fifth category were those who could not be tried in the federal courts or by military commission but were believed too dangerous for release or transfer. This small group would be subject to what the president called prolonged detention accompanied by procedural safeguards and oversight by both the judicial and legislative branches of government.

About five weeks prior to the originally anticipated closing date, President Obama ordered the federal government to acquire an Illinois prison to house certain detainees held at Guantanamo. The Thomson Correctional Center, a near-vacant, super-maximum-security prison located in northwestern Illinois, was selected by the president and the Department of Defense to house a limited number of prisoners.

The proposal enjoyed strong support from Illinois governor Patrick Quinn and Senator Richard Durbin, who praised the idea as potentially creating 3,000 new jobs for the state. Opponents to the plan, including Republicans in the House and the Senate, vowed to prevent the necessary appropriation from being enacted into law. Realistically, to retrofit the existing facility—including construction and installation of new fencing, towers, cameras, and other security measures—would require 8–10 months at an estimated cost of $200 million.

The administration was hopeful that Congress would approve the requested funding as part of its military spending bill for the 2010 fiscal year, but Democratic leaders refused to do so. Congress was to address a supplemental appropriations bill for the Afghanistan war in the late spring of 2010, and it was uncertain whether a rider would be included to address the Thomson facility. Due to the 2010 midterm elections and the volatility concerning moving the detainees to American soil, marginal Democrats, as well as the Republicans—who were hopeful of picking up seats in the Congress—were expected to offer considerable hostility to this proposal. Congressional resistance to the administration's request for additional funding and failure to approve the transfer of the remaining

detainees from Guantanamo to American soil prevented the president's desired timetable for closing the prison facility from being accomplished as originally anticipated in his executive order.

The Military Commissions Acts of 2006 and 2009

In response to the US Supreme Court's decision in *Hamdan v. Rumsfeld*,[27] which struck down the president's order establishing military commissions, Congress enacted the Military Commissions Act (MCA) of 2006.[28] Its intent was to modify the procedures and processes the Court had determined to be deficient, but the new commissions created by the statute lacked substantive evidentiary requirements as well as fair trial guarantees. They were subject to considerable criticism and challenge by the legal community, which led to yet another Supreme Court decision, *Boumediene v. Bush*,[29] in 2008. In that ruling the Court determined that detainees held at Guantanamo Bay were entitled to the constitutional protection of petition for habeas corpus relief despite the fact that they were not nationals of the United States and despite the fact that the MCA specifically denied them such relief. The ruling was narrow, but it led to several additional challenges by detainees held at other military sites who were seeking a determination that the *Boumediene* decision applied to them and that the entire law was unconstitutional and, therefore, could not be enforced.[30]

Military commissions created post–9/11 produced only three case decisions—two by trial and one by a plea deal.[31] Their seven-year track record with respect to efficiency, effectiveness, and most importantly, equity, was questionable at best.

Hours after taking office on 20 January 2009, President Obama ordered prosecutors before the military commission tribunals to seek a 120-day delay in all pending cases, and Secretary of Defense Robert Gates ordered a suspension of all active military commission processes. The president intended to determine what forum was most appropriate for future prosecution of charged prisoners. At that point it appeared the continuation of the military commission process as developed in the MCA was in serious doubt.

There were several flaws in the MCA, which had to be addressed once the Obama administration decided to reinstitute the military commission process. The MCA made the standard on interrogation treatment retroactive to 1997 to exempt CIA and military personnel from prosecution for past treatment under standards the administration considered vague.[32]

The MCA differentiated between statements obtained before 30 December 2005, when the Detainee Treatment Act came into force, and statements obtained after that date. For the latter, a military judge had to find that the interrogation methods used to obtain the statement did not amount to cruel, inhuman, or degrading treatment as defined and prohibited in the DTA.[33]

Hearsay evidence, inadmissible in courts-martial or ordinary US courts under the Federal Rules of Evidence, may be admitted in trial by the military commission unless the party opposing its use, having been given a fair opportunity to challenge the evidence, "demonstrates that the evidence is unreliable or lacking in probative value."[34] The language also provided that classified evidence could be used against charged detainees in military commission trials, but that a summary of that evidence must be provided to defendants.[35] Any classified information "shall be protected and is privileged from disclosure if such disclosure would be detrimental to the national security."[36] This rule applied to "all stages of the proceedings of military commissions, including the discovery phase."[37] Of overriding concern was the applicability of these provisions even to any classified evidence that "reasonably tends to exculpate the accused."[38] Therefore, defendants could very well be denied access to some or all governmental evidence that would serve to prove their innocence if such evidence was classified and the government, with the approval of a military judge, considered it impracticable to provide a summary version.

The right to a lawyer of one's choice was restricted under the MCA because the defendants must bear the cost unless lawyers offered their services pro bono. The civilian lawyer must be a US citizen and have passed a highly restrictive security clearance of "secret or higher."[39] Even if defendants retained a US civilian lawyer with the necessary security clearance, they would still be represented by a US military lawyer as associate counsel, even if that goes against their wishes.[40]

The MCA prohibited the admission of any statement obtained by the use of torture (except as evidence against the person accused of torture).[41] It is important to note, however, that the United States defined torture narrowly. The *Manual for Military Commissions* (*MMC*) identified torture as "An act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incident to lawful sanctions) upon another person within the actor's custody or physical control."

Severe mental pain or suffering is defined as the prolonged mental harm caused by or resulting from:

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or administration of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality.[42]

The military commission system as constituted under the MCA left to the military and executive authorities the determination as to what constituted torture and other ill treatment and whether information produced from it could be introduced at trial. The MCA made no provision that guaranteed the right to a trial within a reasonable time. Indeed, the act expressly stated that any of the rules to a speedy trial in courts-martial proceedings do not apply to military commissions.[43]

Under the MCA, anyone convicted by a military commission may have the findings and sentence reviewed by the convening authority.[44] In addition, the secretary of defense "shall establish" a Court of Military Commission Review (CMCR) made up of panels of not less than three appellate military judges.[45] The secretary of defense appoints the judges, including the chief judge, to the court, and it resides within the Office of the Secretary of Defense.[46]

The CMCR acts only with respect to matters of law and not questions of fact.[47] The court may only grant relief if an error of law prejudiced a substantial trial right of the accused.[48] The MCA emphasized that the DTA's limited right of appeal applied, adding that the District of Columbia (DC) Circuit Court of Appeals may not review the final judgment until the review by the convening authority and the CMCR had been exhausted or waived.[49] In addition, the MCA states that the US Supreme Court may review decisions of the DC Circuit Court of Appeals if it so decides.[50] Except for this limited right of appeal, the MCA was very specific in denying any other "court, justice, or judge to have jurisdiction to

hear or consider any claim or cause of action . . . relating to the prosecution, trial or judgment of a military commission . . . including challenges to the lawfulness of these procedures of military commissions."[51]

On 15 May 2009, the Obama administration announced five rule changes to the military commission system as a first step toward achieving more meaningful reforms to the MCA. The rule changes "prohibited the admission of statements obtained through cruel, inhuman, and degrading treatment; provided detainees greater latitude as to choice of counsel; afforded basic protections for those defendants who refused to testify; reformed the use of hearsay by putting the burden on the party trying to use the statement; and made clear that military judges could determine their own jurisdiction.[52]

In late June, the Senate Armed Services Committee (SASC) reported the FY-10 Defense Authorization Bill (S.7390) to the full Senate. S.7390 included §1031 that replaced the MCA with a new and improved military commissions system. Principal components of the administration's reform were incorporated into the bill as well as several other necessary reforms. Noteworthy among the changes were the following:

- Whereas in the original MCA, the test for admission of testimony allegedly obtained through coercion was keyed to the passage of the DTA,[53] the new MCA applied the post–DTA test to all statements regardless of the date they were taken.
- The MCA and the Defense Authorization Bill allowed for the admission of hearsay evidence at trial, although the test in §1031 provided that the military judge may admit hearsay evidence after taking into account all of the circumstances surrounding the taking of the statement, the degree to which the statement was corroborated, and the indicia of reliability within the statement itself. After that, the test for admission provided that the judge may admit the evidence only if it is determined that (1) the statement was offered as evidence of a material fact, (2) the general proposer of the rule of evidence and the interests of justice were best served by the admission of the statement into evidence, and (3) either direct testimony of the witness was not available as a practical matter or the production of the witness would have an adverse impact on military or intelligence operations.[54]
- The Defense Authorization Bill provided accused al-Qaeda terrorists with the same rights of access to classified information against them

as US service members subject to courts-martial. Section 1031 of the new MCA required that classified information be handled in accordance with rules applicable in trials by general courts-martial of the United States.

- The new MCA sought to provide the procedures and the rules of evidence applicable in trials by general courts-martial of the United States applicable in trials by military commission. The *UCMJ* and its provisions were not binding on military commissions in the MCA.[55]
- The original MCA established a Court of Military Commission Review to serve as the appellate court for the military commissions trial forum. Further appeals were then authorized through the DC Circuit and the US Supreme Courts.[56] The new MCA vested the appellate path directly from the trial commission to the US Court of Appeals for the Armed Forces, which is the current appellate forum for *UCMJ* courts-martial.
- The new MCA defined cruel or inhuman treatment as subjecting a person in custody or under physical control to cruel or inhuman treatment that constitutes a grave breach to Common Article 3 of the Geneva conventions. The original MCA defined cruel or inhuman treatment as an act "intended to inflict severe or serious physical or mental pain or suffering, including serious physical abuse."[57]
- The principal purpose of the MCA was to create a system in which alien unlawful enemy combatants would be tried for violations of the law of war.[58] The new MCA changed the label to *unprivileged enemy belligerent* and defined this person as one who (1) engaged in hostilities against the United States or its coalition partners, or (2) purposefully and materially supported hostilities against the United States or its coalition partners.

When President Obama signed into law the National Defense Authorization Act (NDAA) on 28 October 2009, it essentially retained the provisions discussed above, which makes it a marked improvement over its predecessor. Most importantly, it excludes any statements obtained through torture, coercion, or cruel, inhuman, and degrading treatment; it permits defendants to attend all sessions, to have the right to cross-examine witnesses, and to call their own witnesses in their defense; it requires prosecutors to turn over any exculpatory evidence as well as any evidence that might

impeach the credibility of a government witness; it permits defendants the option of hiring their own civilian lawyers or relying on ones willing to work pro bono, and defense lawyers who have secret-level security clearances are entitled to examine classified information; and it allows defendants found guilty by a military commission to appeal their conviction to a three-judge military review panel and then to the US Court of Appeals for the DC circuit.

The new law is considerably better with respect to ensuring fairness for detainees and provides a far better structure to prosecute those whom the government is unable to try in Article III courts. Federal courts utilizing the *UCMJ* as the benchmark are the ideal solution but not necessarily the most practical in all cases. Military commissions have played a consistent role in our constitutional and historic tradition, and their use when properly authorized by Congress has been upheld by the US Supreme Court. Such commissions have been constitutionally recognized agencies for meeting urgent governmental responsibilities relating to the laws of war without Congress formally declaring war.[59]

In a major policy reversal from the Bush administration, Attorney General Eric Holder in mid November 2009 announced that Khalid Shaikh Mohammed, the self-described mastermind of the 9/11 attacks, and four others accused in the plot would be tried in a Manhattan federal court. The decision by the Obama administration set the stage for one of the highest-profile, highest-security terrorism trials in American history. Mr. Holder said that he would instruct prosecutors to seek the death penalty for all five of the accused.

Six other Guantanamo detainees, including Abd al-Rahim al-Nashiri, the accused architect of al-Qaeda's bombing of the Navy destroyer USS *Cole* in Yemen in 2000, were to be tried before a military commission. The attorney general cited the fact that the *Cole* bombing was an attack on a military target to justify the military trial.

The Obama administration's decision to try Mohammed and his fellow terrorist suspects in civilian court provoked sharp criticism from Republican leaders in Congress, who expressed concerns about national security vulnerability. They insisted that military tribunals were the more secure and appropriate venue for trying the terrorist suspects, and that utilizing federal civilian courts would turn the entire process into a circus atmosphere. Mr. Obama, in an interview with NBC News, responded that any anger

at the civilian trial would disappear when Khalid Shaikh Mohammed is convicted and when the death penalty is applied.

Prolonged Detention of Suspected Terrorists

Post 9/11, the Bush administration's war on terror strategy involved indefinitely holding alleged enemy combatants in American military facilities, including the naval base at Guantanamo Bay and the air base at Bagram, Afghanistan. The intention was, under the laws of war, to hold them without charge and to employ "aggressive" interrogation techniques to gather valuable information that would be useful to our national security interests.

Since September 2004, the movement of prisoners to Guantanamo has virtually come to a halt, leaving Bagram as the preferred detention site. The population at Bagram has increased an estimated sixfold in the past four years, with approximately 600 detainees being held there. Virtually all of the Bagram suspects were captured on the battlefield, were being held in a war zone, and could pose a serious threat to the United States if released. This group is distinct from the remaining Guantanamo detainees who were not captured on the battlefield, nor were they being held in a war zone. What they share in common is the fact that they have been imprisoned for over six years without the legal process providing them any relief.

Because President Obama was committed to an expanded US role in combat operations against the Taliban in Afghanistan, the question arose early concerning how this administration would differ from the Bush administration in its policy of detention in Afghanistan. If President Obama moved away from the Bush administration's highly aggressive detention policies, how would this be reconciled with plans to increase the military surge in Afghanistan, which would most certainly lead to greater numbers of detainees taken into custody from the battlefield, and how would that fit within a counterinsurgency strategy in that nation? For example, in the spring of 2009 President Obama, dispatched an additional 21,000 Soldiers, Marines, and support personnel at the request of GEN David D. McKiernan, former top US commander in Afghanistan, to help stabilize that country, and in a speech at West Point in early December, the president announced his plan to send 30,000 more troops to Afghanistan while setting an 18-month flexible timetable for beginning to withdraw forces. The Pentagon acknowledged that Afghanistan had

become the military's top priority in the war against al-Qaeda and the Taliban supporters to which they are symbiotically linked.

Although President Obama did not express his views on the policy of indefinite detention, he did order a review of the detention of Ali Saleh Kahlah al-Marri, the only individual held in the United States by the DoD as an enemy combatant. Al-Marri, a citizen of Qatar lawfully residing at his home in Peoria, Illinois, was arrested by civilian authorities in 2001 and held without formal criminal charges at a naval brig in Charleston, South Carolina, for over seven years, five of them as a declared "enemy combatant." Since he was never formally charged with a crime, he could not be tried by the government, although US authorities asserted that the detainee conspired with al-Qaeda to engage in terrorist activities.

In July 2008, the US Court of Appeals for the Fourth Circuit upheld the president's authority to order al-Marri's detention. However, in December 2008, the Supreme Court granted a formal request challenging the Fourth Circuit's ruling.[60] In late February 2009, Justice Department prosecutors in the Obama administration brought formal criminal charges against al-Marri for material support of terrorism. Since the Supreme Court was scheduled to hear his case challenging his designation as an "enemy combatant" as illegal, the question arose as to whether the administration intended to proceed with the case or reverse its course and not defend the Bush administration's designation of al-Marri. Despite the position taken by the new administration, many legal observers, including this author, believed it was essential for the Court to rule on the issue. Unfortunately the Court refused to hear the case.

Al-Marri subsequently pled guilty to one count of conspiracy to provide material support to al-Qaeda, admitting that he agreed with others to provide resources in the form of personnel, including himself, to work under al-Qaeda's direction and control with the intent to further the terrorist activity or terrorism objectives of al-Qaeda. At sentencing, al-Marri faced up to 15 years' imprisonment, a $250,000 fine, and a life term of supervised release, but he received a relatively light sentence of eight years from US District Judge Michael Mihm because of what the judge called the "very severe" conditions under which he was held.[61]

Several former federal law enforcement officials from the Department of Justice as well as military and counterterrorism experts have observed that pursuing a policy of indefinite detention is not only ineffective to fighting the war on terror, it is also contrary to rule of law, which is the

basis of the American constitutional system and its regard for fundamental due process rights.[62] The prisoners who have been indefinitely detained at Bagram without any charges or access to lawyers are entitled to federal court review just as the detainees at Guantanamo were given such a right by the Supreme Court in its decision in *Boumediene*.[63] In an opinion written by Associate Justice Kennedy, the five-member majority agreed that §7 of the MCA of 2006, which denies federal courts jurisdiction to hear habeas corpus actions, is unconstitutional. However, the Court failed to determine whether the president has the legal authority to indefinitely detain prisoners held at Guantanamo or for that matter any military facility, including the Bagram air base in Afghanistan.[64]

President Obama lacks such authority, particularly as it applies to those individuals who have been apprehended in nation states far removed from the Afghan battlefield who were not directly participating in hostilities and were subsequently brought to the theater of war for incarceration. The authority to indefinitely detain totally lacks any credibility when it is extended to persons who are seized outside of the theater of armed conflict, who are not directly participating in combat, but may be in their homes, at work, on a street, or in a field cultivating crops. Indefinite detention is a hallmark of repressive regimes such as Egypt, Libya, and Syria, which currently hold hundreds of individuals in prolonged detention without charge or trial. No other European or North American democracy has resorted to long-term detention without charge outside of the deportation context.[65]

The Obama administration has issued new guidelines for the US detention facility at Bagram Air Base that create an improved system for the detainees held there. It will allow them to be informed of the charges against them, provide them the right to challenge government witnesses, and provide members of the US military the ability to gather classified evidence and question witnesses on behalf of any detainees challenging their detention. The military officials are not lawyers, but they are expected to provide the approximately 650 detainees with better representation before military appointed review boards.[66]

The Obama administration has argued that pursuant to the implied authority extant in the *AUMF*, the president has the legal power to indefinitely, or for a prolonged period, detain alleged or suspected terrorists who are national security threats to the United States. This same argument was proffered by the Bush administration from 2001 to 2008. Additionally, it is concluded that under such circumstances, any legislative enactment

from Congress is unnecessary and unwarranted. This decision not to seek congressional support and explicit authorization to provide for prolonged detention of suspected terrorists creates an opportunity that such an action may not only be repeated but also expanded upon by presidents in the future on the basis of serving our nation's security. It is therefore left to the courts, ultimately the US Supreme Court, to resolve this issue.

Conclusion

In its most recent opinion addressing national security policy as it relates to the legal rights of the Guantanamo detainees, the Supreme Court recognized the fact that terrorism continues to pose a serious threat to the United States and will most probably do so for years to come. The president and Congress, consistent with their constitutional duties and responsibilities, are critical actors in the debate about how best to preserve constitutional values while protecting the nation's security.

When President Bush stood before a joint session of Congress just days after the devastating terrorist attack of 11 September 2001, he declared that our war on terror may begin with al-Qaeda but it does not end there. When he returned to Congress in January to deliver his State of the Union address, he cited HAMAS, Hezbollah, Islamic Jihad, North Korea, Iran, and Iraq in addition to al-Qaeda as the principal sponsors of terrorism and emphasized the need to assert his military powers. The United States was in a state of war against terror, terrorists, and terrorism, which required the president to utilize such tools as indefinite detention, military commissions, enhanced interrogation techniques, and rendition to effectively combat this menace. The criminal justice system—including arrest, indictment, arraignment, extradition, and civilian trials—was inappropriate to address the terror threat.

President Bush compared the war on terrorism to World War II and the Cold War, a global, generation-defining struggle against an enemy of extensive military and ideological power that would transform major portions of the globe. For eight years the Bush administration linked al-Qaeda and the Taliban. There were the terrorists who committed the acts and those who harbored them.

Many of the policies taken by the Bush administration have extensive historical roots and precedence. For example, every wartime president asserted his right to indefinitely detain enemy forces without charge during the period of conflict. Military commissions have been employed since the

earliest days of the republic for prosecution of war criminals. Rendition began under President Clinton and possibly earlier. The responsibility of the executive office to protect national security interests led President Bush to seek to use his full arsenal of tools to fight the war on terror.

The effect of the Bush administration's law-of-war strategy was to distort the legitimacy of practices that had been acceptable in prior wars. As Jack Goldsmith observed, "The early Bush administration failed to grasp what Lincoln and Roosevelt understood well: the vital ongoing need to convince the citizenry that the president is using his extraordinary war powers for the public good and not for personal or institutional aggrandizement. By the time the Bush administration began to act on principle in the second term, it was too late; its credibility on these issues . . . severely damaged . . . was unrecoverable."[67]

Pres. Barack Obama was a major critic of the Bush administration's terrorism policies, including indefinite detention, the use of military commissions, enhanced interrogation techniques, and rendition. He has accepted the position that, legally, we are in a state of war with the organization that attacked the United States on 9/11, al-Qaeda, and our aim is to defeat it, not the vague concept of terror or terrorism, globally.

The Obama administration has essentially accepted the core legal position of the Bush strategy regarding indefinite detention of alleged terrorists at Guantanamo as well as other sites (e.g., Afghanistan). A distinction in the current administration's approach is that it has eliminated the use of the designation "enemy combatant" and narrowed the reach of those who can be detained from persons who "support" al-Qaeda to those who "substantially support" it. Additionally, the administration has insisted that its authority is rooted in the *AUMF* and international laws of war. The president has vowed to work closely with Congress to maintain its support for his actions despite the fact that he believes additional legislative action is not required at this time. President Bush relied upon his Article II authority as commander in chief to unilaterally detain suspected terrorists without congressional or judicial support, or for that matter, international covenants or conventions. President Obama has yet to do so.

Although it appeared that President Obama would discontinue the military commission process as developed in the MCA, the administration has opted to support the 2009 amended version of the law, which is a marked improvement over its predecessor. The president has asserted that commissions will be used in certain cases with the appropriate balance of

prosecutorial judgment and judicial process. There are currently six pending cases of Guantanamo detainees slated for military tribunals.

Both John Yoo and Jack Goldsmith have suggested that President Obama has more in common with the ends of the Bush administration's terrorism policies because he shares Bush's broad view of presidential power. However, it is also clear that there are discernable distinctions between the two presidents' approaches to the legal framework employed in the war against terror.

President Obama has emphasized respect for constitutional values and the need to observe the rule of law, which led to his decision to close the Guantanamo Bay facility. Symbolically, this detainee prison camp had developed a reputation as a legal black hole into which those who were captured in the war on terror were dumped. The president established an aggressive timeline for its closure, created a plan to transfer detainees housed there to a prison complex in northern Illinois, and announced that the United States would try suspects held at Guantanamo in military commissions or civilian courts, depending on the suspect and the allegations. Khalid Shaikh Mohammed and four other high-profile terrorist suspects were selected by Attorney General Eric Holder to be prosecuted in federal court in New York City.

On Christmas Day 2009, a Nigerian national on a flight from Amsterdam to Detroit attempted to blow up the plane and its 278 passengers. This failed terrorist incident immediately precipitated a testy debate as to whether such terrorism suspects in the twenty-first century should be prosecuted in the criminal court system or be treated as enemy combatants under the military commission system of justice.

In this case the incident provided a trail of evidence and there was a single defendant. The defendant voluntarily cooperated with law enforcement authorities and provided usable, actionable intelligence, according to the administration, including who gave him the bomb, where he received it, and where he was trained to use it. The defendant had not been interrogated using enhanced techniques. Under the circumstances, the decision to prosecute the defendant in an Article III court was an appropriate one.

The Bush administration attempted to deal with alleged detained terrorists outside of the civilian legal process. Congress and the Court rejected part of that approach, and it adversely impacted the use of what should have been an acceptable process in time of war, the military commission.

The Obama administration, in contrast, is comfortable that it can effectively use civilian courts as well as military commissions to achieve justice in the successful prosecution of terrorist acts.

The nation should remain on the offensive to protect the American people. The government should continue to bring the world's most dangerous terrorists to justice, and it should do so in the context of the rule of law. Arrest and detention without charge truly offends the Constitution and should never be permitted. Using humiliation and degrading abuse in interrogations is un-American, and seizing citizens of foreign nations and placing them beyond the reach of law is antithetical to the principles of justice that are held so dearly as core values of American society. Human rights guarantees provided in international treaties to which the United States is a signatory, such as the Geneva conventions, as well as customary principles of international law to which we subscribe, must be upheld in word, deed, and spirit.

What may be the most difficult of the many issues raised by the Guantanamo detention experience is the question of what to do with those detainees who cannot be released, transferred to other nations, or prosecuted, either by courts or military commissions. This category of detainee is deeply troubling because it is subject to prolonged if not indefinite detention. How is such a determination made, and what criteria are used to determine that such individuals are too dangerous to be released? Certainly the fact that a person was tortured in detention or was detained on the basis of information extracted from torture cannot be a legitimate basis for prolonged detention, given that such evidence cannot be introduced for purposes of prosecution. How then could it be concluded that persons who could not be prosecuted because they were tortured be detained indefinitely?

The decision by the Obama administration not to seek explicit congressional approval for prolonged or indefinite detention of those held at Guantanamo, others who may currently be in similar circumstances elsewhere, or those alleged terrorists the United States may capture in the future continues the unilateral decision-making strategy that characterized the Bush administration's failed detainee policy. The lack of transparency in the Obama administration's decision-making process concerning this group of detainees raises questions not only about the credibility of the process but also about the accuracy of the conclusion reached that these individuals pose a real threat to our national security interests.

It is significant that, post 9/11, neither the Republican nor Democrat president or Congress have been able to create a legally effective interrogation, detention, and trial system for detainees who are alleged to be unprivileged enemy belligerents. It is clear that an interrogation system based upon indefinite detention has not worked successfully in pursuing our national security interests to date.

President Obama must work directly with Congress to address and respond to detainee policy issues. To do so collaboratively will ensure that adherence for our constitutional values and heritage will not exclusively revolve around the personality of the commander in chief, regardless of who occupies that office. Respect and observance of these constitutional values will preserve the rule of law and ensure deliberative engagement in decision making consistent with American values of fairness and justice. SSQ

Notes

1. In the view of Jack Goldsmith, former head of the Office of Legal Counsel in the Department of Justice and assistant attorney general in the Bush administration, the Bush White House had a principled commitment to expanding presidential power that predated 9/11. That commitment led it to act unilaterally on military commissions, detention, and surveillance rather than seeking political and legal support from Congress and opposing judicial review of such policies. Just as damaging was the administration's frequently expressed desire to expand executive power, as Vice President Cheney put it, "to leave the presidency stronger than we found it." Goldsmith, currently a professor at Harvard Law School and a member of the Hoover Institution Task Force on National Security and Law, was forced to resign from his Bush administration position because of his disagreement with national security policy positions established post 9/11. Jack Goldsmith, *The Terror Presidency: Law and Judgment inside the Bush Administration* (New York: W. W. Norton, 2007).

2. "Transcript of President Bush's address," *CNN.com*, 21 September 2001, http://www.cnn.com/2001/US/09/20/gen.bush.transcript.

3. *Authorization for Use of Military Force*, Public Law 107-40, 115 Stat. 224, 18 September 2001.

4. Ibid.

5. *Military Order of November 13, 2001: Detention, Treatment and Trial of Certain Non-Citizens in the War against Terrorism*, 66 *Federal Register* 57833.

6. John Bellinger III, quoted in Cullen Murphy and Todd S. Purdum, "Farewell to All That: An Oral History of the Bush White House," *Vanity Fair*, no. 582 (February 2009): 99.

7. *Lease of Lands for Coaling and Naval Stations*, 23 February 1903, US–Cuba, US Treaty Series (USTS) 418.

8. *Treaty of Relations between the United States and Cuba*, 29 May 1934, USTS 866, 48 Stat. 1682; and Leonard Cutler, *The Rule of Law and Law of War: Military Commissions and Enemy Combatants Post 9/11* (Lewiston, NY: Edwin Mellen Press, 2005), 36, 51, n. 26–27.

9. Cutler, *Rule of Law*, 51, n. 28.

10. *Geneva Convention Relative to the Protection of Prisoners of War*, 12 August 1949, 6 USTS 3316, 75 USTS 135; and Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 6 USTS 3516, 75 USTS 287.

11. Lawrence Wilkinson, in Murphy and Purdum, "Farewell to All That," 148. In statements he made on the blog *Washington Notes* entitled "Some Truths on Guantanamo Bay," Wilkinson said that authorities were holding innocent civilians as terror suspects for years. He faulted the Bush administration for failing to acknowledge the practice, attributing that failure to a desire to preserve the president's legacy and reputation. *Washington Notes* blog post, 17 March 2009.

12. In his most recent book, John Yoo criticizes the Obama administration for releasing the torture memos, "several of which I worked on," and states that he had to write them because it was his job and the president (Bush) was his client and needed a legal question answered. Yoo believed that the administration's terrorism policies would not be possible were it not for a broad view of presidential power over that of Congress or the court. Yoo was the deputy director of the Office of Legal Counsel in the Justice Department in the Bush administration. See Yoo, *Crisis and Command: A History of Executive Power from George Washington to George W. Bush* (New York: Kaplan/Simon & Schuster, 2010).

13. Detainee Treatment Act of 2005, H.R. 2863, S. Amdt. 1977, 109th Cong. Title X, 2005.

14. Ibid.; and Presidential Signing Statement, Defense Appropriation Act, December 2005.

15. Military Commissions Act of 2006, Public Law 109-366 (MCA).

16. Army Field Manual 2-22.3, *Human Intelligence Collector Operations*, 6 September 2006.

17. Office of the Vice President, "Interview of the Vice President by Chris Wallace, FOX News," transcript, 19 December 2008, http://georgewbush-whitehouse.archives.gov/news/releases/2008/12/20081219-11.html.

18. "Interview of the Vice President by Jon Ward and John Solomon, *Washington Times*," transcript, 17 December 2008, http://www.washingtontimes.com/weblogs/potus-notes/2008/Dec/22/cheney-interview-transcript/.

19. Ibid.

20. Ibid.

21. See Jaclyn Belczyk, "Obama orders Guantanamo prison closed within a year," *Jurist*, 22 January 2009, http://jurist.law.pitt.edu/paperchase/2009/01/obama-orders-guantanamo-prison-closed.php.

22. Condoleezza Rice, quoted in Jaime Jansen, "Rice defends Guantanamo detentions at end of UK visit," *Jurist*, 1 April 2006, http://jurist.law.pitt.edu/paperchase/2006/04/rice-defends-guantanamo-detentions-at.php. See also Angela Onikepe, "US Dismisses UK Call to Close Guantanamo Bay," *Jurist*, 11 May 2006, http://jurist.law.pitt.edu/paperchase/2006_05_11_indexarch.

23. Barack Obama, *Executive Order 13492—Review and Disposition of Individuals Detained at the Guantanamo Bay Naval Base and Closure of Detention Facilities*, 22 January 2009, §3, 74 *Federal Register* 4897.

24. Safiya Boucaud, "EU member states to consider accepting Guantanamo detainees after screening," *Jurist*, 27 January 2009, http://jurist.law.pitt.edu/paperchase/2009/01/eu-member-states-to-consider-accepting.php. States mentioned included France, Germany, Ireland, Portugal, and Spain. The speaker of Italy's Chamber of Deputies, Ginanfranco Fini, announced that Italy would not accept detainees released from Guantanamo because Italian law forbids its prison system from housing foreign inmates absent a formal agreement. Lithuania began talks with the United States about accepting prisoners from Guantanamo, and the European parliament voted 542–55 to adapt a resolution calling for member states to accept low-risk prisoners who could not be returned to their home countries because of fear of persecution. See Boucaud, "Italy official says country will not accept Guantanamo detainees," *Jurist*, http://jurist.law.pitt.edu/paperchase/2009/02/italy-official-says-country-will-not.php.

25. Obama, *Executive Order 13493*, §4(c)(3).

26. See Leonard Cutler, *Development in National Security Policy since 9/11: The Separate Roles of the President Congress and the United States Supreme Court* (Lewiston: Edwin Mellen Press, 2008), 37–38. In March 2009, Attorney General Eric Holder announced that the Department of Justice was considering accepting into the United States 17 Uighur detainees who were cleared for release. The initial decision to accept the Uighur detainees and settle them in small groups drew strong criticism from politicians, and the Obama administration subsequently revised its commitment to take any Uighurs. Eventually, the United States won an agreement from the government of Palau, one of the world's least-populated nations, located in the Pacific 500 miles east of the Philippines, to accept 13 Uighurs. The president of that country Johnson Toribiong said that they were "honored and proud" to take them in a "humanitarian gesture." Mark Landler, "Palau to Take Chinese Guantánamo Detainees," *TimesDaily.com*, 10 June 2009, http://www.timesdaily.com/article/20090610/ZNYT03/906103011? Title=Palau-to-Take-Chinese-Guant-xE1-namo-Detainees. However, nine of them expressed reluctance to go there, according to their lawyer Susan Baker Manning. Four remaining Uighurs were accepted and sent to Bermuda, a British territory, and two were accepted as refugees by Switzerland. The Supreme Court in October 2009 agreed to hear the case, Kiyemba v. Obama, 08-1234, to determine whether federal courts have the power to order prisoners (Uighurs) held at Guantanamo Bay to be released into the United States. Judge Ricardo Urbina had ruled that "because their detention had already crossed the constitutional threshold into infinitum and because our system of checks and balances is designed to preserve the fundamental right of liberty, the court grants the petitioners motion for release into the United States." The appeals court ruled that Judge Urbina had overstepped his constitutional authority. See *In re Guantanamo Bay Detainee Litig*. 581 F. Supp. 2d 33 (D.D.C. 2008); and *Kiyemba v. Obama*, 555 F. 3d 1022 (2009).

27. *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006).

28. MCA.

29. *Boumediene v. Bush*, 128 S. Ct. 2229 (2008).

30. Since *Boumediene* was decided, some 37 habeas petitions have been heard. Thirty have been decided in favor of the detainees, seven against them. Of the 30 ordered released, as of this writing 20 are still in custody. There are 80 detainees who have been approved for resettlement, while about 40 have been referred for prosecution. See Richard Bernstein, "A Detainee Freed, but Not Released," *New York Times*, 23 September 2009, www.nytimes.com/2009/09/24/us/24iht-letter.html?

31. See, Cutler, *Development in National Security Policy since 9/11*, n. 25 at 83–86.

32. MCA, § 950 p(a).

33. MCA, § 949 d(f)(1)(A).

34. MCA, § 949 a(b)(2)(E).

35. MCA, § 949 d(f)(2)(A).

36. MCA, § 949 d(f)(1).

37. On 18 January 2007, Secretary of Defense Robert Gates released the *Manual for Military Commissions* (MMC), http://www.defenselink.mil/news/commissionsmanual.html. See *MMC*, Rule 701 (f).

38. MCA, § 949 j(d)(1).

39. MCA, § 949 c(b)(3)(D).

40. MCA, § 949 c(a)(5).

41. MCA, § 948 r(b).

42. MMC, Rule of Evidence 304 (b)(3).

43. MMC, Rule 707 (a)(1).

44. MCA, § 950 b.

45. MCA, § 950 f(a).
46. MMC, Rule 1201.
47. MCA, § 950 f(d).
48. MMC, Rule 1201.
49. MCA, § 950 g(a)(1)(B).
50. MCA, § 950 g(d).
51. MCA, § 950 j(b).
52. See Brad Wiegmann and Col Mark Martins, Detention Policy Task Force, to the Attorney General and the Secretary of Defense, memorandum, 20 July 2009, RE: *Preliminary Report*, 3.
53. MCA, § 948, 11, notes 31 and 32.
54. MCA, § 949 a(b)(2)(E), 11, n. 33.
55. MCA, § 948 b(c).
56. MCA, § 950 f(a), 13, n. 48.
57. MCA, § 948 r(b); and *MMC* Rule of Evidence 304 (b)(3), 12–13, notes 41, 42 .
58. MCA, § 948 b(a).
59. Cutler, Rule of Law, 15.
60. See *Al-Marri v. Pucciarelli*, 534 F.3d 213 (4th Cir. 2008), consolidated as *Al-Marri v. Spagone, Commander, U.S.N., Consolidated Naval Brig*, No. 08-368, July 2008.
61. Department of Justice Press Release, "Ali al-Marri Pleads Guilty to Conspiracy to Provide Material Support to Al-Qaida," 30 April 2009, http://www.usdoj.gov/opa/pr/2009/April/09-nsd-415.html; and David Mercer, "Judge in Illinois sentences al-Qaida agent more than eight years in prison because of harsh treatment," 29 October 2009, www.ilcd.uscourts.gov/media.
62. Seth G. Jones and Martin C. Libicki, *How Terrorist Groups End; Lessons for countering Al Qaida*, MG-741-RC (Santa Monica: RAND, 2008).
63. *Boumediene v. Bush*, 128 S. Ct. 2229 (2008), n.28.
64. In a recent ruling, the US Court of Appeals for the District of Columbia Circuit held that "the president has broad authority to detain suspected terrorists," finding that the detention of Yemeni Ghaleb Nassar Al-Bihani was authorized under domestic law. The three-judge panel of the DC Circuit found that "Al-Bihani was both a part of and substantially supported enemy forces." The court also found that the scope of the president's detention authority is not constrained by international law and the government's burden of proof in habeas proceedings is only a preponderance of the evidence standard. The case was appealed, which could result in a rehearing by the full appeals court. Jaclyn Belczyk, "DC Circuit upholds broad presidential authority to detain terrorism suspects," *Jurist*, 5 January 2010, http://jurist.law.pitt.edu/paperchase/2010/01/dc-circuit-upholds-broad-presidential.php.
65. Sarah Cleveland, "The Legal, Moral, and National Security Consequences of 'Prolonged Detention'," *Hearings before the Senate Committee on the Judiciary, Subcommittee on the Constitution*, 9 June 2009, 4, http://judiciary.senate.gov/hearings/hearing.cfm?id=3896.
66. The new Bagram Air Base facility, which has room for 1,400 detainees, has opened and is part of the administration's wider effort to improve the Afghan detainee system and will be controlled by the Afghan government in the near future. See Patrice Collins, "Obama administration to open new Bagram detention facility," *Jurist*, 16 November 2009, http://jurist.law.pitt.edu/paperchase/2009/11/obama-adminstration-to-open-new-bagram.php.
67. Jack Goldsmith, "The Cheney Fallacy," *New Republic*, 18 May 2009, http://www.tnr.com/article/politics/the-cheney-fallacy?id=1e733cac-c273-48e5-9140-80443ed1f5e2&p=1.

Tribal Dynamics and the Iraq Surge

Bernard Stancati

In his 2007 State of the Union address, President Bush unveiled a new strategy for the war in Iraq that involved an influx of 30,000 additional combat forces. The initial tactical objective of "the surge" was to reduce the violence by restoring order to Baghdad. Its stated strategic objective and purpose was to give the al-Maliki government the space and time needed to progress in other areas, specifically political reconciliation. The first contingent of troops deployed to the Iraqi capital in early 2007, with the last units arriving by the end of June. The operation ended in mid 2008, when the last of the surge-related combat units headed home. In 2009, the United States began a systematic reduction of its forces from the urban outposts it had manned as part of the operation. By the end of June 2009, a total withdrawal of US combat forces from Iraqi cities and urban population centers was complete. Given the recent repositioning of American forces in Iraq and the Obama administration's stated intent to refocus US efforts on the Afghanistan-Pakistan region, a critical analysis of the Iraq surge is vital to achieving strategic success, not only in the Middle East and Central Asia, but in other regions of the world as well.

No one has argued that the influx of additional combat forces was the sole factor responsible for the reduction in violence in Iraq. The conventional wisdom is that the surge, working in combination with other causal factors, resulted in an improved situation.[1] Some, however, question what the surge has actually accomplished, arguing that while it worked tactically from a military perspective, it failed strategically from a political perspective.[2] The objective of this research is to gain an understanding of why that is the case by addressing three key questions. First, since scholars and subject matter experts have identified other causal

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factors besides the surge, could there be another? Second, is it possible that this "dynamic" factor, acting as a top-level governing element, directly affected the behavior of the others? Third, could this top-level "dynamic" factor be the primary reason the surge succeeded tactically but failed politically and strategically? Preliminary analysis suggests this could be the case. After a more in-depth evaluation, one factor did emerge that fit the category of a "top-level governing element," that being *the principle of Iraqi tribal dynamics* (ITD).

The first section of this article focuses on analyzing the existing evidence and data. The goal is twofold: to examine all factors that coalesced to produce what appears to be an improved security situation and to advance the principle of ITD. Next it addresses the nature and characteristics of ITD and its cultural features. Then the article analyzes the relationship between the principle of ITD and the surge. The fourth section is composed of three parts which (1) examine the evidence used to support the contention that the surge did work militarily, (2) analyze reporting to gauge what current trends in violence may indicate, and (3) address the fact that the United States is facing a number of foreign-policy challenges across the globe. The latter demonstrates that a cultural-centric analytical approach will be instrumental in formulating well-developed courses of action that could help produce a positive outcome. Because Iraqi society is composed of more than 80 different tribes, the study employed a macro-level analytical approach instead of a more detailed micro-level examination and analysis of individual tribes. Therefore, the critical analysis centers on three large, macro-level tribal groups—Iraqi Sunnis, Iraqi Shia, and Iraqi Kurds—each composed of a number of individual tribal-based entities.

The Suggestion of Other Possible Causes

In 2007, Dr. Marc Lynch, an associate professor of political science and international affairs at George Washington University, organized an online symposium on Iraq. The impetus for the event stemmed from all the political bickering over "the surge" that, according to Lynch, had caused the public discourse to degenerate into partisan arguments focused on casualty figures and body counts. He was concerned that a willingness to engage in a more fundamental debate that addressed important core geopolitical and strategic questions was being lost due to the elevated levels of political fervor and rhetoric.[3] To assist in this endeavor, Lynch solicited

the support of two colleagues: Dr. Colin H. Kahl, assistant professor, Security Services Program, Georgetown University, and Dr. Brian Katulis, a senior fellow at the Center for American Progress.

Based on the number of important contributions that emerged from the symposium, the final report deemed the event a success. An essay from Dr. Kahl critically examined the prospects for stability and political accommodation in Iraq. His analysis demonstrated that the surge was one of four interrelated factors that eventually merged to help improve the security situation. The other three are:

- the Sunni "awakening"—the initiative to recruit Sunni tribes and former militants who had begun turning against al-Qaeda in Iraq (AQI) to join in a partnership with the US military,
- the Sadr "freeze"—Muqtada al-Sadr's decision not to challenge the Baghdad security plan and to stand down his militia, and
- sectarian cleansing—the prior sectarian cleansing activity, which had actually run its course by the time the surge was in full swing, resulted in defensible enclaves within the capital segmented along sectarian lines.[4]

Kahl's thesis is thought provoking, but did other researchers and scholars arrive at the same or similar conclusions? A review of the literature showed that was the case. Steven Simon, senior fellow for Middle Eastern studies at the Council on Foreign Relations, also argued that the influx of troops was not the sole change agent responsible for the reduced levels of violence.[5] Instead, it was the result of the surge working in combination with three other important developments: "the grim success of ethnic cleansing, the [perceived] tactical quiescence [and acquiescence] of the Shiite militias, and a series of deals between US forces and Sunni tribes that constituted a new bottom-up approach to pacifying Iraq."[6]

The next step in the analysis involved cross-correlating Kahl's and Simon's work. This proved an invaluable activity because it helped validate the notion that the surge, in conjunction with other factors, caused a reduction in violence, and it forced to the surface two other important analytical questions. The first concerned whether this other factor was actually a top-level governing element, and if so, the second question examined whether it had a direct effect on the behavior of the other four. To determine the validity of these two questions, more in-depth analysis was required to examine each of the four causal factors in relation to the others. Initially, the results seemed

promising. As the analysis proceeded, a fifth factor eventually emerged, and the data seemed to suggest that this factor was also acting as a top-level element. The end result was the verification of a fifth factor, defined and characterized as the governing principle of Iraqi tribal dynamics.

Investigating ITD—Its Nature and Characteristics

The process of analyzing the connection between ITD and the surge requires an examination of the key elements that define its nature and characteristics. Understandably, tribal dynamics are predicated on a host of cultural features, such as religion, kinship, business (both legal and illicit), history, politics, interpersonal relationships, and customs. While addressing each in detail would have enhanced the quality and strength of this study, doing so was beyond the scope. Therefore, only a few key features, such as history, politics, loyalty, and customs (specifically "blood feud/vengeance"), were examined, with the intent of linking them to the thesis being offered.

Some General Aspects of Middle East Tribal Dynamics

To this day, the Arab Bedouin tribal community is an integral part of modern Iraqi society and culture. Both can trace their roots to biblical times and the harsh environmental realities of the desert. Over time, the prime orientation of this tribal-based culture evolved to embrace more of a communitarian viewpoint with common goals and objectives and less of an individualistic one. Based on these historical antecedents, the group—not the individual—became the sociological lynchpin for the pre-Islamic Bedouin tribal community.[7] Members of the tribe do have rights and duties, but only as they pertain to the welfare of the group. In terms of tribal cohesion, a number of external and internal forces help to cement this community together as a unit. The external is the need for self-defense against a multitude of harsh environmental elements. The internal is the basic social bond that encompasses the blood tie of descent through the male line of a tribal family unit.

Another feature that further defines and characterizes the Bedouin culture, along with regulating its behavior, is tribal customs. The driving force behind these social norms centers on the veneration of ancestors and associated precedents, sanctioned only by tribal public opinion. One in particular is the social-limiting custom of blood vengeance that imposes

"on the kin of a murdered man the duty [and social responsibility] of exacting vengeance from the murderer or one of his fellow tribesmen."[8] If the perpetrator is from another tribe, it is possible that a blood feud could erupt between the two tribal groups. If the tribe seeking vengeance is weaker, it can attempt to seek an alliance with another tribe, thus adhering to the tribal dynamic principle that the enemy of my enemy is now my friend, even if this means forging a relationship with a former enemy or rival tribal group. An important aspect of this type of group behavior is that these alliances are most often temporary in nature, falling more into the realm of "marriages of convenience," and causing loyalties to shift like the shifting sand, depending on which way the tribal political wind is blowing. Likewise, Arab tribal groups will apply this same approach, only in a much broader context, when confronted with an external foreign invader or occupier. From an organizational behavior perspective, this is a key axiom, because such insights help bring us closer to understanding how and why the surge succeeded in one sense but failed in another.

As previously mentioned, there is also a political dimension to tribal dynamics, which is rudimentary and grounded in customs. The head of a tribal-based community is the sayyid, or sheik. This person is normally selected by a group of tribal elders and, once chosen, is viewed by the group as a first among equals. The sheik is not a central authority with coercive powers and neither inflicts penalties nor imposes duties on individual members of the group. Based on these societal norms, the sheik will therefore follow the principle of arbitration rather than dictatorial command, going with tribal opinion rather than trying to impose his will upon the group. In fact, to this nomadic society and culture, exercising subservience to a central authority has always been somewhat of an abhorrent and foreign concept.[9]

Socio-Historical Features

Since the 2003 invasion of Iraq, there has been an ongoing discussion amongst scholars on whether Iraqi society can ever truly embrace the principles of democracy or at least the basic tenets of a representative form of governance.[10] According to Hussein Sirriyeh, this debate has resulted in the emergence of two schools of thought.[11] One argues that democracy is attainable in Iraq; the other contends that democracy in Iraq is unfeasible in view of the ongoing violence between Shia and Sunnis fueled by long-

standing sectarian tension between those religious and culturally diverse sociopolitical groups.[12]

While important from a tribal dynamics perspective, the question of whether democracy is attainable in Iraq is not a new one and has been addressed before by Iraqi historical sociologist Ali al-Wardi. Through some seminal work, al-Wardi has come closer than most in defining and characterizing the nature of the ITD phenomenon. His in-depth observation and analysis highlighted the conflict-strewn nature of Iraqi society—a condition that pits tribe against tribe, neighborhood against neighborhood, tribe against the government, Shia against Sunni, and everyone together against an outsider—all of which is being "held together by the geographic imperatives of coexistence in the same space rather than a common sense of shared history or purpose."[13]

The methodology used by al-Wardi was simple and straightforward. It consisted of careful and meticulous observation of events and conditions. He rejected the statistically based approach of modern, mainly Anglo-American, social science because he found it inappropriate for analyzing Iraq's culture and sociological conditions.[14] Al-Wardi acknowledged two important facts concerning his research: first, that he followed the methodological traditions of Max Weber and second, that he was influenced by the work of Ibn Khaldun, one of the Islamic community's greatest historical philosophers. All told, it was "probably from Ibn Khaldun that he drew his inspirations for his major insights into the nature of Iraqi society, namely the pervasive dichotomy between the city, representing urban civilized values, and the steppes, representing the prevalence of nomadic, tribal values."[15] From this solid foundation, al-Wardi could argue some important points; for example, the cultural divide and hostility that exist between Iraqi Shia and Sunnis are simply a contest over religious dogma and theology is shortsighted. He argued that a more accurate representation acknowledged the historical tendency of Iraqis to devolve into antagonistic sectarian-based camps when faced with chaotic and stressful sociopolitical conditions such as the current situation in Iraq.

Through exhaustive research, al-Wardi demonstrated that because of tribal traditions, warlord tendencies, and sectarian loyalties, Iraqis historically view politics as a means of maintaining a balance of power within the tribal-based Islamic community and less as a relationship between themselves and a central governing authority.[16] Al-Wardi captured this condition through a detailed evaluation of the social psychological framework

of his own people. From this vantage point he then presented a sound but controversial thesis. He proposed that the "process of modernization and urbanization was [only] skin deep in Iraq, and that tribal and sectarian values, born of the experience of surviving in the harsh environment of the desert, continued to hold sway for the vast majority of the country's inhabitants."[17] Such a condition presents a difficult problem to the United States, for how can we expect both a national consciousness and an inherent respect for a central governing authority to emerge in Iraq when in times of chaos and conflict, the populace identifies primarily with tribal, family, and sectarian roots? As we examine present-day Iraqi society and culture, we must understand that it is these historical and cultural elements as described by al-Wardi that govern how it functions, behaves, and operates.

Iraqi Tribal Dynamics and the Surge

Through detailed critical analysis, this study revealed three insights. One, it helped substantiate the notion that an amalgamation of four developments—of which the surge was one—ultimately caused the improved situation in Iraq. Two, it validated the notion that one factor, the governing principle of tribal dynamics acting as a top-level element, affected the behavior of the other four. Three, it helped validate the existence of a cause-and-effect relationship between the surge and ITD. Understandably, the influx of troops was not responsible for the onset of the Iraqi tribal dynamics phenomenon. It did, however, exacerbate this centuries-old cultural condition by influencing the behavior patterns of the antagonistic players. To understand how, one needs to examine some key events through a tribal dynamics lens composed of the following cultural features: history, religion and politics (as they relate to the Sunni-Shia divide), loyalty, and customs (specifically blood feuds and vengeance). Such an approach encompasses examining these events from three different angles: an Iraqi societal perspective, an Iraqi Sunni perspective, and an Iraqi Shia perspective.

Iraqi Societal Perspective. Fundamentally, Iraqi culture is an Arab-based tribal society whose population is over 98 percent Muslim, with a majority of those belonging to the Shiite sect. By invading Iraq in 2003, the United States unwittingly opened up a millennium-old Sunni-Shia Pandora's cultural box. The systemic problem being, while the Sunni are the majority in the Muslim world, they are the minority in Iraq. With the ousting of Saddam Hussein, power was taken from the Sunni Ba'athists (a repressive Iraqi societal minority/Islamic community majority), and in time was

placed in the hands of Iraqi Shiites (the oppressed Iraqi majority/Islamic community minority). Based on America's foreign-policy approach to Iraq, the prevailing conventional wisdom among Iraqi Sunnis, especially within the insurgent ranks and elsewhere in the Middle East, was that the United States had sided with the Shiites.[18] The concern and fear that resonated within the Iraqi Sunni population was that since they were now the deposed minority, the Shia would take advantage of the situation and resort to the age-old tribal custom of blood-feud vengeance to exact a measure of revenge. This heightened anxiety level among Iraqi Sunnis was a catalyst for the onset of the insurgency and the sectarian civil war that followed.

Both groups saw the advent of the surge strategy in 2007 as a means of forwarding their own culturally based political agendas and objectives. The Sunni saw the new strategy as an opportunity to not only stop the bleeding but also as a means for regaining their lost hold on power and to protect them from a Shiite-dominated central government.[19] For the Shia, the surge meant they would become the undisputed winners in the sectarian civil war. Also, the influx of additional combat forces would provide them with the means for consolidating their hold on power and redressing old grievances.[20] Because each side was maneuvering to advance its own agenda, this brought into question their loyalty to what the United States was trying to achieve both strategically and politically in Iraq.[21] Examining the 2003 invasion and the 2007 surge through a tribal dynamics prism, the fundamental problem in each case was the United States did not understand from a cultural perspective the nature of the war. Ultimately, we did not understand with whom and with what we were engaged. Using the same lens to view Afghanistan, one could argue we are on the verge of making the same or similar errors there.

Iraqi Sunni Perspective. During 2005–06, a new development started to emerge in the western Anbar region of Iraq. Various Sunni tribal groups, warlords, insurgents, and militants decided to turn against their former ally, al-Qaeda in Iraq, in response to AQI's power grabs, executions, and encroachment into the illicit economic activities of the western tribes.[22] In support of this emerging movement, the western Sunni tribal sheiks formed the Anbar Salvation Council. Since the revolt of the Sunni tribal leaders against AQI predates the 2007 influx of additional combat troops, the surge was not causally connected to these events. Nevertheless, perceptive US military commanders were able to exploit the rift that had grown between the western Sunni tribes and AQI as a vehicle for quelling the

insurgency. This activity eventually transformed into the "Sunni Awakening" initiative, a US–developed plan designed to persuade various Sunni tribes and former insurgents to become part of a collaborative alliance against AQI.

The initiative was orchestrated around 80,000–100,000 individuals, 80 percent of them Iraqi Sunnis. In the end, the membership included an assortment of Sunni tribal members, former insurgents, former Saddam party loyalists, and various Sunni criminal elements. To ensure some level of success, the US military had to establish partnerships with a number of unsavory characters with questionable loyalties.[23] One of the principal reasons this US–led effort gave the appearance of success was because, from a tribal dynamics standpoint, the various western Sunni tribal entities recognized that the US military was the most powerful tribe in the country.[24] Consequently, they clearly understood that the best chance to achieve their political objectives was to dissolve the AQI partnership and form a new one with the Americans.

As the initiative took hold, it spread across many neighborhoods in the greater Baghdad area and surrounding provinces. This led to the emergence of the Concerned Local Citizens (CLC) irregular forces group. In exchange for their loyalty, the United States provided most of the CLC members with contracts worth $300 along with a pledge of incorporation into the Iraqi Security Forces (ISF). While the plan seemed feasible at a top level, the program, as designed, was fraught with incredible risk overall due to two important factors. First, the Sunni-based tribes and insurgent groups did not decide to cooperate with the US military simply because they had a change of heart concerning our presence and were now supportive of our plans, goals, and objectives. Second, their motivations and loyalties were not benign in nature and were more representative of their efforts to "eliminate the proximate threat from AQI, reverse their current political marginalization, and to position themselves vis-à-vis the Shia (and their presumed Iranian patrons) in the event of a U.S. withdrawal."[25]

Seeing what the United States was trying to accomplish in the homogeneous Anbar province, the al-Maliki government was initially accepting of the awakening initiative but only in principle. A key component of this US–led effort included plans for turning the program over to the Iraqi central government. But as the CLC and the Sons of Iraq movements grew and spread into mixed regions and neighborhoods, the anxiety level

of the Shia-dominated central government also increased, because from a tribal dynamics perspective, it seemed the United States was arming a potential rival that would one day challenge the authority of the central government.[26] After a bit of diplomatic arm twisting, the al-Maliki government agreed to be more accommodating. It pledged to integrate about 20 percent of the current CLC membership into the ISF, with the remainder going to nonsecurity government jobs. To date, the government has been very slow in making good on this pledge. This lack of action has forced the United States to establish a civilian job corps as a means of incorporating disenfranchised Sunnis that the government will never integrate into the ISF. If the al-Maliki government fails to carry out its promises and balks at taking over the management and funding of the civil employment program, then disillusionment and resentment over the whole process will set in, and as one US Army officer observed, "It's game on—they're back to attacking again."[27]

In retrospect, it is not clear whether the initial Sunni motivations were more defensive or offensive in nature. If their aims were defensive, they may have only been seeking security against Shia militia units and death squads and AQI foreign fighters. If the aims were more offensive and expansionist, then the CLC and the Sons of Iraq may have been seeking to "exact revenge, reclaim Sunni neighborhoods lost in 2006–07, and topple the Iraqi government."[28] Only time will tell which motivation will emerge as the most viable one.

Iraqi Shiite Viewpoint. One area where the surge may have had a direct causal effect concerns the decision by Muqtada al-Sadr to stand down the Jasih al-Mahdi (JAM) militia group. Not long after the announcement of the surge strategy, Sadr instructed his militia forces not to challenge the US–proposed Baghdad security plan. But not all agreed with Sadr's approach. On 28 August 2007, a ferocious firefight erupted in Karbala between Sadr's militia, the JAM, and members of the Badr organization, a rival group associated with the Supreme Islamic Iraqi Council (SIIC), causing hundreds of Shia civilian casualties. The next day, Sadr announced he was standing down his militia and was ordering a six-month freeze on all armed actions in an attempt to "rehabilitate" the Mahdi army.

Some contend that the motivations behind Sadr's actions still remain unclear, but when examined through a tribal dynamics prism, they do seem sound.[29] Like their Sunni rivals, the Shia groups also recognized that the US military was the most powerful tribe in Iraq and would lose

if they tried a more-direct, confrontational approach. Another factor concerned accusations by the Iraqi Shia populace and others against the JAM for engaging in criminal activities. The stand-down could have been an attempt by Sadr to improve the group's image. A third factor could be that facing competition from extremist factions both inside and outside his organization, Sadr used a surged-up American military presence as a means of consolidating his hold on power. He accomplished this by simply looking the other way as the US military began targeting the rogue "special groups" and "secret cells" that he could no longer control.[30] From a practical tribal standpoint, it is also possible that Sadr wanted to avoid another large-scale confrontation with the US military like occurred in the summer of 2004. Finally, Sadr's behavior was probably connected to the politically savvy, Iranian-born Shia cleric, Grand Ayatollah Sistani, who, acting in the role of a tribal sheik, most likely provided advice and guidance to Sadr on how best to proceed. Nevertheless, viewing the Sadr freeze through the ITD features of power politics, customs, and religion, the explanations of these actions seems logical. By taking a nonconfrontational approach to an enhanced American military presence, Sadr has been able to consolidate his power by letting a former enemy take care of his current enemies, along with any potential challengers.

The Surge's Limited Tactical Success—A Tribal Dynamics Perspective

Based on what appears to be an improved security situation in Iraq, the contention is that the surge has achieved some limited tactical success. The evidence to support such a claim is the decline in the number of Iraqi civilian casualties. Even though violence is still occurring in Iraq on a monthly basis, the current security situation seems to add credence to the aforementioned premise. To be sure, however, the investigation needed to examine what has been occurring in Iraq since the end of the surge through an ITD prism to determine the current trends in both security and safety and to propose what they might indicate.

The Evidence

During the 2006–07 time period, the number of Iraqi civilians killed by violence skyrocketed to its highest level since the March 2003 invasion. Using a combination of mortuary information and figures provided by

the Iraqi Ministry of Health, the United Nations Assistance Mission in Iraq estimated that approximately 1,800 civilians died in January 2006 as a result of the wave of violence.[31] From June to December 2006, the monthly Iraqi civilian casualty average nearly doubled to 3,300. By the beginning of 2008, US administration officials and military officers started touting that the surge had achieved some limited tactical success. Their contention was that while Iraq remained a very dangerous place, events since the end of the surge seemed to suggest there had been a significant and meaningful improvement in the security situation. Eventually, other political and military leaders, along with the media, started providing similar assessments. In each case, the evidence used to support those claims was the noted decline in civilian casualties.

The first to present such evidence, compiled from both coalition force (CF) and Iraqi ministry reports, was the team of Gen David Petraeus and Amb. Ryan Crocker, the designers of the "joint campaign plan" that married the surge of troops with better counterinsurgency tactics. On 10–11 September 2007, Crocker and Petraeus testified before Congress. During the two days of testimony, General Petraeus outlined that the overall levels of attacks against coalition forces, sectarian-based killings, improvised explosive device (IED) attacks, and indirect attacks against US forces were down.[32] The argument presented by Crocker and Petraeus to Congress was that the new Iraq counterinsurgency strategy, coupled with the influx of troops, was the cause for the reduction in violence and the improved security situation.

Other government organizations have made similar claims. According to Pentagon statistics, violence in Iraq declined to levels seen just prior to the February 2006 bombing of the Samarra Golden Shrine.[33] Information provided by the CF showed that the total number of attacks in October 2007 on Iraqi civilians, Iraqi military, and police forces was down 55 percent from the June 2007 levels.[34] By the end of November 2007, commanders in Iraq were stating that attacks across the board had declined to levels they had not seen since the mid-2005 time frame. While early 2007 had been the deadliest period in Iraq for US forces, near the end of 2007 the number of casualties and combat-related deaths was down substantially. The peak three-month period was April–June 2007, with 331 killed in action. By the last quarter of 2007, the numbers had declined another 28 percent—the lowest totals of the entire conflict. In December 2009, that level reached zero, a first time ever since the start of the war.

Independent sources have also provided support to the claim of limited tactical success of the surge.[35] For example, Jeffrey McCausland in his travels around Iraq gathered information from Soldiers he met at various joint security stations, patrol bases, and combat outposts scattered about the capital. In each case the troops kept telling him the same thing—they were making a difference.[36] The tangible evidence given was the fact that attacks against US forces were becoming less frequent than when they first occupied those positions. They were also being inundated with information from the local population about the location of various militia, insurgent, and AQI elements, along with the location of IEDs and weapons caches.

McCausland stressed caution, however, about jumping too soon to a positive assessment. As he correctly pointed out, one would expect that the influx of nearly 30,000 additional combat troops into areas US forces had rarely or never ventured into would produce a positive outcome. The military planners McCausland interfaced with also expressed caution about touting success too soon. The reality was the new strategy and approach had only been in effect for a few months. In their minds, prudence demanded holding off on presenting a definitive assessment on the effectiveness of the surge until an enduring trend was seen in one direction or the other.

Examining Current Events and Trends in Iraq through a TD Lens

From the perspective of tribal dynamics, we can trace the source of much of the violence in Iraq to vicious struggles for political power. Since these disputes over power sharing have gone unresolved, some have postulated that the improved security situation equates only to a tactical pause in violence.[37] In 2007, then–Iraqi deputy prime minister Barham Salih came to a similar conclusion. He remarked that "it's more of a cease-fire than a peace."[38] Some have also suggested that stability in Iraq was only the result of the surge forcing the activities of both sides underground, thus presenting a false sense of security.[39] To determine if there is any validity to these contentions, we need to examine what has been occurring in Iraq since the end of surge operations. Such analysis could help answer some important questions that have emerged during the course of this investigation while at the same time shedding light on new issues and developments not seen during the first round of violence.

As previously noted, the lowered level of civilian casualties was the primary evidence to connect the surge to improved security in Iraq. Using that as the

baseline, the investigation turned toward reporting in Iraq, specifically civilian deaths due to attacks and bombings. The data collection effort covered a time period from January to December 2009 and entailed scanning newspapers for articles on Iraq. Once compiled, the information was organized by what had occurred, where in Iraq it had occurred, when it occurred, and who was involved. The data showed that after a steady decline in the number of Iraqi civilian deaths, with January 2009 the lowest at 275, it appeared to be back on the rise. February topped out at 343 civilian deaths, followed by 408 in March and 485 in April, the highest since the start of the surge. May was a relatively quiet month with less than 200 deaths. In June the number of Iraqi civilians killed again broke the 400 mark at 438, followed by 465 in July and 456 in August. September and November were relatively quiet with approximately 18 and 22 civilian deaths, respectively. On 26 October and 8 December, suicide car bombers attacked government buildings in Baghdad, killing hundreds and wounding hundreds more, the worst violence in over two years. All combined, the total number of Iraqis killed from these and other bombings in October and December hit the 320 mark. One important fact remains. Although the number killed is way down from 2006–07 and may have even leveled out to some degree, death and violence are still occurring on a monthly basis.

An analysis of the current state of affairs in Iraq through the TD cultural features of power politics and customs resulted in three propositions. First, the uptick of violence could be a strong indicator that this is "game on," thus adding support to the premise that the perceived stable situation had only been a temporary lull and not a peace, and that the improved security situation was the result of the surge forcing the activities of both sides underground. The second centers on the possibility that the surge activity has given a false sense of security due to a false positive reading. Therefore, from a surface-level perspective, what appears to be a more stable situation actually is not. The third is that the new wave of violence could be a signal that Sunni groups have decided to abandon the CLC awakening/Sunni reconciliation initiative because the effort has not produced any tangible results, partly the result of the Shiite-dominated central government's failure to carry through on its promises of reconciliation and integration. This could be the case because, from a tribal dynamics viewpoint, it takes 100 years and three generations to work through a blood feud–centric

cultural dispute.[40] Therefore, from a practical standpoint, reconciliation is just too hard to accomplish in a relatively short period of time.

As the current events analysis progressed, three issues emerged that were not seen during 2006–07. First, what appears to be a concerted effort on the part of the Iraqi Shia militia and associated groups not to retaliate. The most likely explanation could be that they do not want to invoke a response from a reduced but still viable US military presence. While commendable, it is probably only a question of time before the Shia groups devolve into a retaliatory mode.

A second issue concerns the extent of this new surge of violence. During the 2006–07 time period, the violence was strictly an Iraqi Sunni-Shia affair centered mainly in Baghdad and the Anbar province, so the focus of the surge strategy was within and west of the capital. It did not affect the Kurdish north or the Shiite south. With this latest round of violence, a disturbing new aspect has emerged. While the perpetrators' focus is once again on fomenting a sectarian conflict, they have extended the violence to include the Kurds, a different cultural group. This has serious implications, because if the insurgents succeed in provoking the Kurds, the situation could transform from a provincial into a nationwide conflict.[41]

Lastly, based on what has been occurring recently in the Pakistani-Afghan region, there could be a connection between what appears to be a leveling out and lowering of the violence in Iraq and the increase in violence there. The characteristics of the attacks and bombings in both Afghanistan and Pakistan seem to be mimicking what has been occurring in Iraq since the start of the insurgency. The lower levels of activity in Iraq could be an indicator al-Qaeda has shifted a portion of its effort from one region to another in support of its Taliban ally.

Tribal Dynamics—What Is Next and the Road Ahead?

Given that many other foreign-policy challenges lie ahead for the United States, gaining a deeper understanding of how the culture of a region affects plans, approaches, and military outcomes is not only essential but also a vital component of our decision and strategy formulation processes. The objective of this section is to highlight how and why cultural analysis can help achieve a successful outcome in Afghanistan and the Afghan-Pakistan region by engaging in a compare-and-contrast exercise between what we now know about Iraq and the shifting of emphasis toward the Afghanistan war. Using the TD cultural features of history, loyalty, cus-

toms, religion, and power politics as a central viewing piece, the study examines three issues that form the basis of this compare-and-contrast effort. First is the call for increasing the troop presence in Afghanistan. The second concerns the plan to apply the Iraq Sunni awakening approach to lower elements of the Afghan Taliban. The third, and perhaps most critical, is the initiative to build up the Afghanistan National Army (ANA) and National Police (ANP).

Increased Troop Presence in Afghanistan. At the end of August 2009, GEN Stanley McChrystal, US and NATO commander in Afghanistan, presented to Congress his assessment of the situation in Afghanistan, followed shortly by a request for approximately 40,000 additional forces. On 2 December 2009, the Obama administration approved the approach but at a lower number than originally requested. Before getting into a discussion on an "Afghanistan surge," a reiteration of some of the key points uncovered concerning the Iraq surge is essential. One is that a combination of developments, influenced by the governing principle of tribal dynamics, was the main cause for the reduction in violence in Iraq. Another is that from a tribal dynamics perspective, the improved situation was not a true peace but only a temporary lull in the violence, because one of the unintended consequences of the Iraqi surge was that it forced the activities of both sides underground. Last, and of equal importance, is the fact that the surge succeeded tactically but failed strategically.

Regardless of the noted drawbacks and shortcomings of the surge strategy, it was still a key player in the final outcome because it changed behavior patterns. On the Iraqi Sunni side of the equation, they recognized that to advance their own "hidden hand" political objectives and agendas, they needed to partner with the strongest tribe in Iraq, the US military.[42] For the same reason, the Shia groups decided to avoid doing anything that might provoke a response from an enhanced American military presence since they were on the verge of winning the civil war. Neither group changed its behavior patterns in support of US goals or objectives concerning Iraq but did so as a means of advancing its own agenda.

In the short term, the Iraq surge may have achieved some transitory limited tactical success. In the long run, however, this success may have come at the expense of stoking "the three forces that have traditionally threatened the stability of Middle Eastern states: tribalism, warlordism, and sectarianism."[43] More importantly, history has shown that states that have failed to control these three forces have become ungovernable or

nearly ungovernable.[44] Based on what this study has uncovered concerning the surge, this could be the outcome our actions have prepared for Iraq and one that could be waiting for us in Afghanistan.

Iraq and Afghanistan are very different places, historically, culturally, and socially. The conditions and factors that are driving events in the Afghanistan-Pakistan region are very different than those affecting outcomes in Iraq. One such factor concerns the primary cultural delineations that exist between various social groups and peoples. About 99 percent of the Afghan people are Muslim, mostly members of the Sunni sect. While Afghanistan does have distinct Sunni and Shia populations, the cultural separations are less pronounced along sectarian lines and occur more along tribal, clan, and family lines. Therefore, we can characterize the Afghan war as a tribal-centric civil affair because the Taliban are Pashtuns, meaning that the conflict is fundamentally a Pashtun-related problem.

This has implications from a power politics and center of gravity perspective. According to General Petraeus, since there is no strong central government in Afghanistan for a majority of the Afghan people, the real power resides at the local level in village, tribal, and cultural traditions.[45] Thus, he contends that heavy conventional infantry units are likely to be less useful than lighter and nimbler forces, suggesting the need for moving away from a regional strategy that is military-centric and developing one that is more sociocultural-centric.[46] Therefore, depending on its composition and how it is used, it is quite possible that an influx of additional forces might result in a positive outcome. Any regional strategy should have as one of its core elements the governing principle of tribal dynamics. Because a surge of forces will have a positive and/or negative effect on the behavior patterns of all the principal players, both friend and foe, it could ultimately result in the emergence of a number of unexpected negative outcomes.

Extending this a bit further, the principal antagonistic actors/players (Afghan central government, tribes and clans, and the Taliban) could also come to view an Afghan surge as an opportunity to advance their own political agendas and objectives. For example, establishing a TD-based alliance with the United States could give one particular group the tactical, operational, and strategic edge against another in what is basically a long-standing and ongoing Afghanistan civil war. As in Iraq, such behavior would not dovetail well at all with what the United States is trying to achieve for both Afghanistan and the region. Such behavior could also call

into question a particular group's loyalty to any plans and programs the United States would try to formulate as part of its overall regional strategy. This, then, is a good segue into the next area of discussion, an examination of a possible "Taliban awakening" initiative.

The Afghan Taliban Awakening Initiative. On 15 September 2009, ADM Michael Mullen, chairman of the Joint Chiefs of Staff, told a Senate panel there was a plan underway to persuade lower-level Taliban elements to switch sides. The initiative is similar in design to the one used by US military commanders in Iraq and will offer incentives to Taliban fighters to do so. But before addressing the Taliban awakening effort, a reiteration of some of the key points concerning the Iraq Sunni awakening initiative is deemed essential.

The main issues surrounding the Sunni awakening effort concern the TD cultural features of loyalties, motivations, possible hidden agendas, and trust or lack thereof. As previously addressed, Iraqi Sunni groups did not engage in a cooperative venture with the US military because of a change of heart and were not supportive of US foreign policy goals and objectives.[47] On the contrary, they did so to advance their own political agendas and because the US military was handing out cash and promises of jobs in exchange for loyalty. At the present time the motivations of the Sunni groups still remain unclear, and only time will tell if they are more defensive or offensive in nature and design.[48] Finally, from a trust and good faith perspective, the al-Maliki government has failed to make good on its promises of integration and reconciliation. The inaction and/or lack of action on the part of the al-Maliki government are contributing to what appears to be a growing sense of disillusionment and frustration on the Sunni side. Because of this, the current trend analysis seems to suggest that a portion of the Sunni-based groups CLC and Sons of Iraq may have returned to the insurgency. In the end, we may find that a sizeable portion never really left.

What are the implications for Afghanistan? Looking through a tribal dynamics prism, a few cracks have already started to appear in the Taliban awakening initiative porcelain as a result of the same aforementioned factors. One in particular concerns the nature and characteristics of the present condition. As General Petraeus ably pointed out, the Taliban are not conventional fighters. They do not wear a uniform that identifies them as either Taliban or al-Qaeda or other.[49] To complicate the situation even further, the definition and characterization of "the enemy" covers a wide

spectrum. According to Petraeus, this means that "There are few true believers [in the militant Jihadist movement], but there are many others who support the enemy only because they feel threatened or intimidated and are just trying to survive."[50] The cause for concern here centers on the dynamic of interpersonal relationships governed by the TD features of kinship, clans, family, and tribal connections, which in the end could ultimately render a Taliban awakening initiative impotent.

Two cases in point support the contention that a Taliban awakening initiative could be fraught with trouble. One concerns President Karzai's lack of success in wooing back insurgent commanders. The other, which has a connection to the first, involves a Mr. Ghulam Yahya, the former mayor of Herat. Yahya is an ethnic Tajik and a former enemy of the Taliban who initially worked hand-in-hand with US, NATO, and UN officials to rebuild his country. Due to a number of interrelated issues, rampant corruption being one, Yahya has now become one of the most prominent non-Pashtun Afghan insurgent chiefs. What makes the case even more interesting is that from a TD perspective this Pashtun-Tajik connection is not a natural union, due in part to an antagonistic history. The reasons in both situations can be traced to a growing sense of frustration, disillusionment, and resentment, all linked to (1) foreign troops' lack of respect for Afghan culture, (2) foreign troops' bombing and killing of innocent people in various parts of the country, (3) ongoing foreign support for a corrupt Karzai government, (4) endemic corruption that has resulted in little to no reconstruction in certain parts of the country, and finally, (5) anger over alleged fraud in the August 2009 presidential election.[51]

Nevertheless, there seems to have been some positive developments in this area. For example, in late January 2010, an eastern Afghanistan tribe, the Shinwari group, signed a pact with US officials to keep the Taliban out of five districts of the Nangarhar province, an area that it controls composed of approximately 600,000 people. In a show of solidarity, US military officials pledged $200,000 toward a jobs program and $1 million in tribal funds. But the practical realities of tribal dynamics must temper any touting of success, due to two important interrelated factors. First, while the Karzai government most likely approved of the pact, the fact remains that the Shinwaris brokered a deal with the US military and not the Afghan central government. The second concerns the impetus for such an arrangement. According to Shinwari tribal leaders, the pact was born as much out of a growing frustration with the

Karzai government as it was a desire to keep the Taliban out. When viewing all of this through a tribal dynamics cultural lens, the building of strong relationships between the central authority, the United States and its NATO partners, the enemies of the Karzai government, and the various tribal groups is dependent on the nurturing of good faith, trust, and loyalty. Conversely, the lack thereof could have serious unintended negative consequences for both the US–led NATO coalition and the Afghan people.

Developing the Afghanistan National Army and National Police. The third and final issue centers on the buildup of the ANA and the ANP, critical key components of the coalition's new strategy to push back the insurgency. Both initiatives are fraught with incredible risk, due primarily to the influence of the TD features of history, kinship, clans, families, tribal customs, interpersonal relationships, and the delineations that these features cause amongst the various Afghan social and cultural groups.

While the problems associated with the development and buildup of both the Iraqi national police and army center on the same or similar TD cultural features, the integration issues are more sectarian in nature and characteristic compared to Afghanistan. In each case there are two similar problems associated with the development of a national army and police force. One concerns the integration of different cultural groups. A second focuses on the question of loyalty of a culturally diverse membership to a national consciousness and central governance that both institutions would come to represent. Since Afghanistan is very much a tribal- and clan-based society with little to no history of strong central governance, there are some serious doubts whether a national army or police force would endear itself to such principles. Corruption aside (which is a major problem associated with the ANP), would these organizations operate holistically across the country as an integrated unit in support of national goals and objectives? Or, due to the influence of a number of TD cultural features—such as clan loyalty, tribal customs, or distrust of central governance—would its members elect instead to fight only in those areas of the country where they are from and where their tribe, clan, and family members reside? If the answer turns out to be the latter, such a development could compromise the integrity of the strategy, causing it to eventually collapse.

Discussion and Conclusion

A key component of this investigation was to demonstrate the importance of cultural analysis in the formulation of a successful foreign-policy outcome. It achieved this via a critical evaluation of US operations in Iraq with an eye toward cause and effect. The primary objective of the investigation focused on understanding why the surge achieved its tactical military objectives but ultimately failed strategically and politically. What the data suggest is that influence of various cultural variables, specifically in the form of tribal dynamics, could be the reason the surge was successful in one domain but not in the other. To gain a more positive reading will require further testing through careful observation and evaluation of Iraqi sociopolitical and security conditions over an extended period of time. One limitation of the study was that the analysis of the Iraqi tribal entities occurred only at the macro level, while a sound and viable methodology engaging in a micro-level examination and approach would help further substantiate the argument that detailed cultural knowledge is a key component in any foreign policy and strategy development and management process. Nevertheless, at this stage, four important implications have emerged.

The work demonstrated that the surge, working in conjunction with four other developments, helped to bring about what appeared to be an improved security situation in Iraq. Data from initial analysis also suggested there was one top-level cultural factor that directly influenced the behavior of the other four—the governing principle of Iraqi tribal dynamics. Additional critical analysis was required to provide a strong case in support of that premise. Examining the connection between the principle of tribal dynamics and the surge accomplished two things: (1) it validated the notion that tribal dynamics did function as an overarching governing factor, and (2) it demonstrated that while the surge may have achieved only limited tactical success, it was a major player in a couple of key ways. First, the influx of additional combat forces was the causal factor that drove ITD–based activity in a number of unforeseen and unintended directions. Secondly, acting as a component within the tribal dynamics construct, the surge was responsible for changing the behavior patterns of the principal antagonistic players and in ways that were also unexpected. All these variables combined could help to explain why the surge was both a tactical success and a strategic failure.

To better understand and appreciate the governing principle of ITD requires becoming knowledgeable on its nature and characteristics. The study achieved this goal by examining tribal dynamics from a number of different perspectives, such as general Middle Eastern, historical, and sociological viewpoints. This activity showed how tribal dynamics arrived in Iraq and how it is still a principal factor in present-day Iraqi culture and society. It also highlighted some of the cultural features on which ITD is predicated, such as customs, history, religion, politics, and interpersonal relationships—all of which factor into this notion of dynamics.

Many foreign challenges lie ahead for the United States, not only in Iraq but elsewhere across the globe, such as the Afghanistan-Pakistan region. An essential part of this work examined the way forward through a cultural-tribal dynamics viewing piece. Since cultural factors do impact strategic plans and military outcomes, a portion of this effort was dedicated to showing how a cultural-based process specifically focused on one particular element—tribal dynamics—can help in current and future foreign-policy initiatives. The study achieved that goal via a compare-and-contrast analysis between operations in Iraq and the situation in the Afghanistan-Pakistan region. Even though both places and the situations contained in each are very different, utilization of a TD cultural-based-analysis approach was the common thread that made such an analysis possible. What emerged were some top-level commonalities in the development of awakening initiatives, national armies and police forces, plans, and strategies that demonstrated the role such analysis plays in fomenting a successful outcome in these and other related efforts.

Finally, General McChrystal assessed the situation in Afghanistan as critical and headed for failure unless the United States committed more troops. Since there are so many variables in play—tribal dynamics, an ongoing civil war, and the irrational-rational behavior of our enemy, to name a few—the best one can say at this time is that this may or may not be the case. The reality is that the possible outcomes, like the variables, are also wide and varied. Nonetheless, on 2 December 2009 at West Point, President Obama announced the administration's new Afghan war strategy, which also encompassed Pakistan. The plan basically called for sending 30,000-plus additional US forces to Afghanistan by summer 2010, with a systematic withdrawal of surge-related troops starting in July 2011, depending on conditions. Understandably, the new strategy in no way ensures that we will achieve success in Afghanistan, let alone defeat the Taliban and its

al-Qaeda allies. Nevertheless, there are a few incontrovertible facts tied to the Obama administration's newly announced approach. One in particular is that success or failure in both this and future foreign-policy ventures will ultimately depend on a strategy formulation and management process that is both culturally centric and iterative in design. The reasoning is that the strategic leaders would then have at their disposal a mechanism for critically examining the validity of various strategies and plans through a culturally dynamic prism that, in the final analysis, may help to increase the chances of the United States achieving a positive outcome. SSQ

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Wartime Alliances versus Coalition Warfare

How Institutional Structure Matters in the Multilateral Prosecution of Wars

Patricia A. Weitsman

Reading the graffiti on the latrine walls at the Kandahar airfield in Afghanistan, it is not entirely clear who the enemy is. "*Identify your . . . target before you kill*," addresses one Canadian's comment toward the Americans. *"Canadians, first learn how to fight and stop getting your ass kicked every time you go outside the wire*," is the response.[1] The tension within ranks is normal, especially under pressure-cooker conditions of wartime. Yet the dynamics of intracoalition and intraalliance politics are largely ignored in advance of decisions of how to prosecute wars and in understanding the politics of state behavior once wars are underway. This is troubling, given the importance of institutional design and its impact on fighting effectiveness.

No one doubts that military alliances are highly consequential in shaping the landscape of international politics. States pursue alliances to preserve themselves in the face of threats or to augment their power. Once formed, military alliances send ripples through the system, shaping the patterns of interaction among states, and may alter the identity of politics among members.[2] Because of the increased threat confronting nonmembers once

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an alliance is formed, it may alter future patterns of alignment or culminate in military hostilities. The most consequential realm of multilateral action is in the area of military operations, but scholars and policymakers think nothing of dismissing coalition operations as unilateral if one country takes the lead in decision making. This is problematic. Any multinational operation requires coordination in command and control and mutual cooperation in ideas and actions. The dynamics within coalitions and alliances are as important as the objectives they are designed to pursue.

Alliance operations during wartime are fundamentally different from coalition operations. What follows is an analysis of these differences, including their formation, cohesiveness, and burden sharing. In many ways, states in coalitions focus principally on operational effectiveness, while political effectiveness becomes of primary concern in wartime alliances. Next, the argument is evaluated in the context of two cases: the first Gulf War coalition and NATO operations in Kosovo. Finally, an analysis of contemporary wars and policy recommendations is presented.

Wartime Alliances versus Wartime Coalitions

Not all wartime partnerships are created equal. In some cases, an alliance concluded during peacetime is called upon to prosecute a war. In other instances, once war is imminent or has already begun, states come together in an ad hoc coalition designed for the express purpose of fighting. Preexisting alliances benefit from preexisting decision-making structures and joint planning; yet coalitions benefit from being tailored for the express purpose for which they are being used. In terms of effective fighting capability, military alliances have the advantage of opportunities for joint war planning; stable relations among allies; the opportunity for creating effective command, control, and information structures; and agreed-upon mechanisms for decision making. All of these factors should make coordinating action during wartime easier than in coalition operations. Yet because alliances that operate in war are usually created during peacetime, the transition is not so easy. This is true for several reasons. First, egalitarian decision-making structures which foster cohesion during peacetime create onerous procedures not well suited to quick, decisive action necessary during war. The emphasis on political rather than operational effectiveness hampers the functioning of the alliance in wartime. Second, not all alliance partners will be equally threatened, nor will they

be likely to all desire wartime action equally. In other words, fears of entrapment are likely to outweigh fears of abandonment during wartime. Finally, threats that are compatible during peacetime do not necessarily translate into compatible threats during wartime.[3]

Coalitions and wartime alliances are both subsets of multinational operations, which may include other forms of multilateral cooperation, such as peacekeeping missions. *Coalitions are ad hoc multinational understandings that are forged to undertake a specific mission and dissolve once that mission is complete*. They are not wholly analytically distinct from wartime alliances, although the latter may have a greater degree of institutionalization and may predate a specific wartime operation. *Wartime alliances are formal or informal agreements between two or more states intended to further (militarily) the national security of the participating states, usually in the form of joint consultation and cooperation to prevail in war against a common enemy or enemies. Such alliances are usually concluded in peacetime in order to prevent or prevail in war, but continue to operate under wartime conditions. States augment their joint planning, consultation, and sometimes integrate their forces as their plans for war unfold and are implemented. Member states usually expect the alliance will endure beyond any specific war or crisis.*[4] There is a range of commitment levels that alliances may provide. Six can be specifically identified: (1) a promise to maintain benevolent neutrality in the event of war; (2) a promise to consult in the event of military hostilities with an implication of aid; (3) promises of military assistance and other aid in event of war, but unilateral and without pre-prepared or explicit conditions specified; (4) a promise to come to the active assistance of an ally under specific circumstances; (5) an unconditional promise of mutual assistance, short of joint planning, with division of forces; and (6) an unconditional promise of mutual assistance in the event of attack with preplanned command and control and the integration of forces and strategy.[5]

Coalitions forged to combat a specific threat come in various forms. Contemporary coalitions formed by the United States to fight in the first Gulf War, Afghanistan, and Iraq have many features in common, yet many differences as well. The advantage to creating such coalitions is they can be tailored to the specific needs of the mission at hand. Some of these coalitions—namely the first Gulf War—are forged out of a genuine desire to collectively address the wishes of the international community.[6] In other instances—the current wars in Afghanistan and Iraq—the coalitions are forged as a means toward achieving objectives that serve the interest of one nation above all, even if the

coalitions in the end do not actually serve the interest of the principal state. In reality, contemporary coalitions are often constructed in ways that are not always conducive to the US national interest.

First, the large scale of contemporary coalitions may actually reduce fighting effectiveness by creating additional complexities regarding decision making, interoperability, and burden sharing. Second, contemporary coalitions are being formed with an eye to legitimizing international operations rather than to increasing war-fighting effectiveness (which occurs only rarely), even if those efforts at establishing legitimacy may meet with varied success. However, because coalitions are designed to address a specific military objective, there is some emphasis on operational effectiveness, within certain parameters.

Fighting effectiveness of multinational forces requires a clear chain of command, decision making, interoperability, equitable burden sharing, technology, human power, and resources. Larger coalitions may pose more challenges in this regard. In addition, as the size of a fighting force grows, the more difficult it becomes to manage the differences in rules of engagement. For example, during the invasion of Iraq in March 2003, 14 Australian F/A-18 Hornet pilots defied the orders of their American commanding officers. These pilots independently aborted 40 bombing missions at the last minute because they believed that the objects of attack were not valid military targets or that dropping their bombs would result in an alarming number of civilian casualties. None of the pilots were reprimanded—they were following Australian rules of engagement.[7]

Contemporary coalition warfare differs from its historical counterparts in that coalitions formed in the post–Cold War and post–9/11 eras by the United States contain a significant number of American allies. Because the experience of NATO in the former Yugoslavia revealed that the unwieldy nature of the decision-making structure was seen at odds with the need for quick, decisive action during wartime, the United States opted to construct coalitions in the succeeding missions. Even with its longtime allies, the United States concluded bilateral agreements rather than using the preexisting multilateral framework available through NATO. This has the advantage of fighting alongside allies with shared experience in training and enhanced interoperability, yet with the flexibility in decision-making arrangements available through coalitions.[8]

These hybrids—part alliance, part coalition—make the distinction between alliances and coalitions blurry. What is the efficacy of such fighting arrangements?

Because long-standing, highly institutionalized alliances are usually established during peacetime, their wartime operation may be unwieldy and problematic. These alliances generally have rigid structures unsuitable to effective or efficient wartime operation because of their attention to political harmony during peacetime. Further, the demands on member states regarding integration of forces are high, creating a natural tension with their desires to maintain national control of their troops. Hence, long-standing military alliances will be less cohesive in wartime than ad hoc coalitions. In addition, institutional design may impinge on burden-sharing concerns. To draw out this argument, two case studies, Desert Storm/Desert Shield and Operation Allied Force, are relevant. These cases are not intended to be exercises in proof; rather, they provide assessment and illustration of the arguments.

First Gulf War Coalition

The United States Central Command (USCENTCOM) was established during the waning years of the Cold War. Following the Iranian hostage crisis, it became clear to US decision makers that to have a rapid deployment force that could be dispatched around the globe quickly in response to such developments was necessary. In 1983 the newly established Rapid Deployment Joint Task Force (RDJTF) was transformed into a permanent unified command. Its area of responsibility was the Middle East, East Africa, and Central Asia. Once the Cold War ended, USCENTCOM commander in chief (USCINCCENT), GEN Norman Schwarzkopf, began focusing on regional threats. When Saddam Hussein invaded Kuwait in 1990, CENTCOM responded quickly by dispatching troops to Saudi Arabia to deter an Iraqi attack.[9]

In the immediate aftermath of Saddam Hussein's invasion of Kuwait on 2 August 1990, the United States spearheaded an effort to construct a multinational coalition to respond. The United Nations played an important role—the UN Security Council passed a series of resolutions condemning the invasion, demanding Iraq's withdrawal, establishing sanctions, and authorizing the use of force if Iraq did not comply.[10] With unanimity in the international community condemning the invasion and enormous effort on the part of Pres. George H. W. Bush and Secretary of State James Baker, a large coalition of states was forged. The coalition was built beyond countries threatened by the invasion, though Iraq's at-

tack posed a tremendous threat to many countries. In the region, Saudi Arabia was especially vulnerable to attack. The Gulf Cooperation Council (GCC) countries of Saudi Arabia, Bahrain, the United Arab Emirates, Qatar, Oman, and Kuwait, were alarmed and reacted strongly against the invasion. As Cairo became a center for Kuwaiti refugees, Egypt also responded with alacrity to the invasion. Tensions had already been running high between Egypt and Iraq concerning Egyptian workers in Iraq; the attack on Kuwait deepened tensions. Syria was also threatened by the attack and responded quickly to the crisis, deploying troops in October.[11] The attack was perceived as highly threatening to Western countries sensitive to the vagaries of the oil markets. This high level of threat effectively galvanized the international community, as did President Bush.

President Bush was instrumental in forging the coalition. He used personal diplomacy and ongoing relationships with world leaders to bring the member states together. While Bush took a leadership role, there was widespread sentiment in the international community that action needed to be taken and taken collectively. The shared norm of sovereignty and the value of its preservation were predominant in the decision to intervene. Bush made a point of constructing a coalition that extended beyond the frontline states. The decision was sanctioned by an affirmative vote in the UN Security Council, and despite the fact that forging a coalition complicated the operational mission, there was pervasive support in the international community for action. Almost 50 countries contributed to the first Gulf War in some capacity. By the end of the operations (both Desert Shield and Desert Storm), 38 countries including the United States contributed nearly 800,000 troops to the coalition. There were over 300 combat and combat support battalions, over 225 naval vessels, and nearly 2,800 fixed-wing aircraft.[12] Many countries contributed to the coalition financially—in addition to billions in economic aid to affected countries, an estimated $54 billion was given the United States to offset projected incremental costs of $61 billion.[13] The level of threat posed by Saddam Hussein's invasion was instrumental in bringing about the formation of the coalition poised to deter and repel his attack. The high level of threat perceived by the international community was also instrumental in fostering cohesion in the coalition.[14]

Cohesion

It was relatively easy for the partners to agree that deterring the Iraqis from invading Saudi Arabia was a key goal. It was slightly more difficult to achieve consensus on pushing Saddam Hussein's forces out of Kuwait and back into Iraq. Ultimately, consensus was reached and cohesion maintained. The command and control system that emerged enabled the coalition to pursue those objectives effectively, thereby enhancing the cohesion of the coalition.

A joint directorate of planning (JDOP) between the United States and Saudi Arabia was established in the two weeks following Saddam Hussein's invasion. A coalition, coordination, communication, and integration center (C3IC) was established and became the cornerstone of the combined operations. It provided the link between the two parallel command structures as well as the place where conflict could be aired, negotiated, and resolved.[15] At first, too few experienced personnel, an absence of mutual operating procedures, and inadequate communications interoperability posed problems, and these relationships changed continuously as more and more countries deployed troops to Saudi Arabia in advance of Operation Desert Shield.[16] The United States took the lead in planning and executing the operations. As Peter de la Billiére, commander in chief of the British forces in the Gulf War reported, Norman Schwarzkopf was the person who "got things done . . . efficiently, and helped and enabled us to win this war."[17]

Ultimately, command and control of coalition forces was established with "separate, but parallel lines of authority with US and Saudi Arabian forces remaining under their respective national command authorities."[18] French land forces remained under French command but were under the operational control of the Saudis. British forces remained under British command, but operational and tactical control of air and ground forces was given to the United States. Eventually Egyptian and Syrian divisions were integrated into the defense. The headquarters for CENTCOM, per its request, was located in the same building as the Saudi Ministry of Defense and Aviation to facilitate coordination of the two staffs.

A separate cell was established to begin planning Operation Desert Storm. A planning team with representatives from the United States, the United Kingdom, Egypt, and France was at the heart of the effort. "As with everything else in this war, the development of this plan was a team effort involving literally hundreds of people at every echelon of command across the entire coalition."[19] The process did not always proceed smoothly, and

much of the work had to be done by the United States, with one British representative in the planning cell.[20]

The parallel command structure allowed troops from Arab and Islamic countries to remain under Islamic Arab control, while Western countries maintained control of Western troops. Planners took enormous pains to ensure cultural sensitivities were maintained. For example, US personnel deploying to Saudi Arabia had to undergo extensive indoctrination programs to educate themselves about the history, customs, religions, and laws of the region. Alcohol was prohibited in CENTCOM's area of operation, and a civilian dress code was established as well. Broadcasts on the US Armed Forces Radio and Television Service (AFRTS) were monitored to avoid offense. American women were briefed extensively regarding Islamic and Saudi expectations of female conduct, although the Saudis did lift the prohibition against women driving, provided it was part of their official duty.[21] Tending to cultural differences was essential in fostering and maintaining coalition cohesion.

As the coalition shifted from Desert Shield to Desert Storm, the parallel decision-making structure was augmented by upping the number of liaison officers, who then made changes to the C3IC which strengthened it and made it more effective.[22] The United States and its coalition partners worked very hard to keep the coalition together. The consequences of failure loomed. The "inherent fragility" of the coalition meant that a great deal of effort had to go into negotiating, compromising, and maintaining its cohesion.[23] Tension surfaced among the force commanders in particular who did not always agree on operational or tactical implementation decisions. In the end, however, the coalition maintained cohesion because of the efforts undertaken by the main coalition partners.[24]

The first Gulf War revealed command and control challenges posed by coalition warfare in another important way: friendly fire. Coalition partners must communicate effectively at all levels to prevent lethal friendly fire—the accidental killing of other allied units occurs frequently in coalition warfare. The United States killed as many British soldiers during the first Gulf War as the enemy did. Nearly a quarter of all American casualties during the Gulf War were a consequence of friendly fire.[25] In subsequent wars, Afghanistan and Iraq in particular, friendly fire has made task cohesion on the ground more difficult than ever.

Table 1: Foreign Government Pledges and Contributions to the United States
(Dollars in millions)

	Pledges			Contributions		
Contributor	1990	1991	Total	Cash	In-kind	Total
Saudi Arabia	$3,339	$13,500	$16,839	$12,809	$4,046	$16,855
Kuwait	2,506	13,550	16,056	16,015	43	16,058
United Arab Emirates	1,000	3,088	4,088	3,870	218	4,088
Japan	1,680	8,332	10,012	9,441 c	571	10,012
Germany	1,072	5,500	6,572	5,772 c	683	6,455
Korea	80	275	355	150	101	251
Others*	3	26	29	8	22	30
Total	$9,680	$44,271	$53,951	$48,065	$5,684	$53,749

*Includes Italy, Oman, Qatar, Bahrain, Belgium, Denmark, Norway, and Luxemburg

Source: US Government Accountability Office, *Report to Congress: Financial Management Fiscal Year 1992 Audit of the Defense Cooperation Account*, GAO-NIAD-93-185 (Washington: GAO, August 1993).

Burden Sharing within the Coalition

According to the US Government Accountability Office (GAO), by September 1992, the United States had received about $54 billion in aid to offset the incremental costs to the United States of Operations Desert Shield and Desert Storm. Table 1 provides a country-by-country summary.

The incremental costs to the United States, estimated by the Office of Management and Budget (OMB), were $61.1 billion.[26] In terms of funding the war, burden sharing was handled very effectively. The United States provided the largest deployment of troops by far—540,000 out of the nearly 800,000 total.[27] Saudi Arabia was the next largest contributor, with troop levels around 50,000, followed by the UK with approximately 45,000 troops.[28] Other contributions to the coalition included observing the embargo against Iraq despite significant lost revenues.

While opinions vary on the equity of burden sharing in the Gulf War, that coalition was funded most broadly of the post–Cold War coalitions formed by the United States. In contrast, the United States has had to pay its coalition partners in the current war in Iraq for their continued participation.[29]

Studies of burden sharing in the Gulf War also universally acknowledge the importance of the US position in successfully constructing the coalition. Katsuaki Terasawa and William Gates, for example, argue that intense lobbying by the United States culminated in Germany and Japan contrib-

uting more to the coalition than their return would warrant. Others argue that alliance dependence makes states receptive to contributing to coalitions beyond the immediate gains they may reap.[30] What this suggests is that a powerful state's influence and regard in the international system may be essential to success in forging such coalitions—threat alone is not enough.

The Gulf War coalition experienced challenges of interoperability and took a great deal of effort on the part of the United States to maintain. Careful thought went into crafting the decision-making structure—a system that could absorb differences of opinion, resolve them, and keep avenues of communication open. The Gulf War coalition was extremely effective—in large part because of the conscious efforts of the United States and its key partners. Certainly conflict occurred within the coalition, but in the end clear political and military objectives and a resilient coalition structure—as well as a weak enemy—enabled the partners to prevail.

The Kosovo Alliance

In late February 1998, government forces of the Federal Republic of Yugoslavia (FRY) and the Kosovo Liberation Army (KLA) began to clash. As the KLA began making advances in June and July, the Yugoslav government launched a major counteroffensive, which continued through September. Over a quarter of a million people were displaced, thousands of homes were destroyed, and the makings of a humanitarian disaster confronted the international community. Despite attempts to negotiate a cease-fire through the Holbrooke Agreement in October 1998 and negotiations at Rambouillet, France, in February 1999, the fighting on the ground in Kosovo escalated in March 1999. By January 1999, NATO had empowered Secretary General Javier Solana to authorize air strikes with the intention of compelling Milosevic into compliance.[31]

US and NATO planning for war began earlier, in 1998. Above all, the strategic concerns of turmoil in NATO's backyard were at issue. The European member states were unable to take action without the strategic assets of the United States. By early spring of 1999, over 40 air campaign options had been considered. It was clear that the United States in particular was unwilling to commit ground forces, and plans for fighting an air war were a political necessity.[32] On 23 March 1999, Operation Allied Force began. The air campaign lasted until 10 June, ending with Serbian capitulation.[33]

Cohesion

It was a challenge to develop and maintain cohesion during the Kosovo campaign. Despite the fact that NATO was a preexisting alliance with command and decision-making structures, the Kosovo campaign was its most active mission and only its second offensive military mission in its 50-year history. The 19 NATO member states[34] ultimately agreed that ending Milosevic's brutality in Kosovo was necessary, but even coming to that agreement was difficult. In fact, the GAO identified the absence of clear military objectives as one of the principal departures from military doctrine in Operation Allied Force.[35] The ambiguity of alliance goals resulted from divergent perspectives within the alliance. It reported that all of the member states had different perspectives on the conflict and on what action should be taken and how.

> One member nation, which shared religious and cultural backgrounds with the Kosovar Albanians, was sympathetic to their plight, while another nation had historic and religious ties to the Serbian Yugoslavs. Another NATO nation was led by a coalition government, where part of the coalition supported the NATO alliance operation while the other part of the coalition did not want the bombing campaign to continue and said that it would withdraw from the government if the NATO alliance used a ground force. Even within the United States, there was not a consensus of support for this operation. Although the three newest members of the NATO alliance supported the operation, the level of support expressed by their governments varied. For example, although one nation offered NATO forces the use of its air space and military airfields, it was concerned about Yugoslavian retaliation against a minority population in Yugoslavia that was ethnically related to this nation.[36]

The alliance struggled to agree on exactly how to stop the Serbian government. While alliance partners agreed on general goals, it was difficult to agree on strategies toward attaining those goals. Using NATO was the only way to approach this mission; no one country was willing to take action alone. Further, it offered NATO an opportunity to bolster its image in the early post–Cold War years, when its mission and continuance were being questioned. It also gave the United States a chance to strengthen the alliance in the aftermath of the Bosnia experience.[37] A unilateral approach to the Kosovo crisis would have proved far costlier than any country was willing to bear; in this case multilateralism was easier and more advantageous. A commitment to NATO and keeping the alliance active was an important consideration as well.[38] Because of reluctance on

the part of the countries to act alone, acting via NATO was the only viable and least costly option.

Because of resistance from the United States in particular to place its troops under the command of others, a parallel command structure evolved (see fig. 1). Unlike the parallel command structure in the Gulf War and despite the fact that many individuals in the structure served two masters, there was less structured interface between the two. The chain of command was confusing, with unsuitable organizational structures and insufficient staff integration. Although NATO was necessary to prosecute the war, in the end it "came at the cost of a flawed strategy that was further hobbled by the manifold inefficiencies that were part and parcel of conducting combat operations by committee."[39]

Because NATO decisions have to be made by consensus, waging war collectively was extremely difficult. At the start of the campaign, only 51 targets had been approved by the allies. By June 1999, the list included 976. Each additional target had to be proposed, reviewed, and approved by NATO and national authorities before it could be added to the list.[40] Target requests were denied by some of the allies or by the United States. Delays were common by the United States, as well as other states in the alliance, in approving target requests. In some cases, targets were subjected to a domestic legal review to guarantee compliance with international law.[41] According to Paul Strickland, a member of the NATO combined air operations center (CAOC), in the initial 40 days of the campaign, a number of fairly insignificant targets were repeatedly bombed into rubble because of an absence of new approved target sets.[42] The Pentagon estimated that some 80 percent of the targets hit in the first month of the campaign had been hit at some point before.[43]

In some instances, the United States withheld information about missions involving the use of "F-117s, B-2s, and cruise missiles, to ensure strict US control over those US–only assets and to maintain a firewall against leaks from any allies who might compromise those operations." This created potentially dangerous situations when, for example, US aircraft showed up on NATO radars without advance notice. Even when the United States opted to share information, the process was complicated and cumbersome, hampering the alliance's ability to act effectively.[44]

In addition to being unwieldy and slow, the alliance suffered from other troubles as well.[45] According to Supreme Allied Commander Europe (SACEUR) GEN Wesley Clark, who led NATO's campaign, leaks were

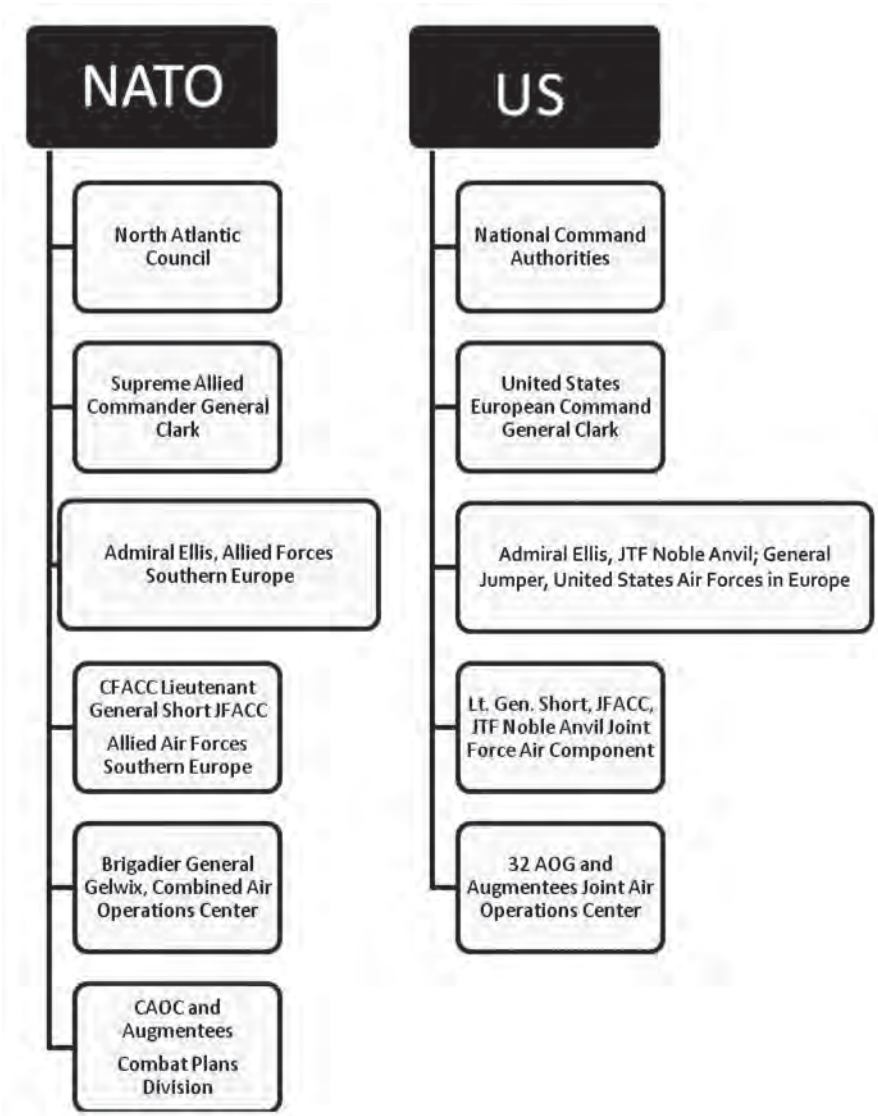

Figure 1: Operation Allied Force command structure

Source: Benjamin S. Lambeth, *NATO's Air War for Kosovo: A Strategic and Operational Assessment* (Washington: RAND, 2001), 208.

a constant source of trouble. As early as October 1998, one of the French officers working at NATO headquarters had leaked key portions of the operational plan for the campaign to the Serbians.[46]

The fissures in the alliance were especially clear in the dispute over the Pristina airport in June 1999, after the NATO air operation had concluded. As the NATO-led Kosovo force (KFOR) was deployed to occupy

Serbia, Russian troops and fellow Slavs in collusion with the Serbians moved to occupy the Pristina airport. This event threatened to enlarge a sphere of influence in the north, putting KFOR's mission at risk. Fearing an expanding sphere of influence for the Russians, or a partition, Clark requested entering troops block the runways at Pristina and seize the airport ahead of the Russians. Sir Michael Jackson, the British general in charge of the operation, balked at the orders. According to Clark, Jackson said he "would no longer be taking his orders from Washington." When Clark countered by saying the orders did not come from Washington but rather from him as SACEUR, Jackson responded by telling Clark he did not have that authority. When Clark responded that he did have the authority, Jackson told Clark that he would not be starting WWIII for him. Jackson told Clark that as a three-star general he should not have to take orders from Clark; Clark's response was that he himself was a four-star general and indeed Jackson did have to take orders from him. The dispute resulted in numerous phone calls to various British and American officials. The French also backed out of the operation at the behest of the British.[47] Above all, the incident revealed the difficulties among the allies in agreeing on goals and on strategies toward attaining those goals. It also illustrated the problems associated with multinational command structure, even in long-standing, highly institutionalized alliances such as NATO.

In sum, the alliance was fraught with conflict and difficulty achieving consensus on ultimate objectives and how to prosecute the war. According to the GAO, cohesion was so difficult to maintain that it resulted in profound departures from US military doctrine,[48] further complicating the campaign. This represents one of the many inherent challenges to alliance war fighting.

Burden Sharing within the Coalition

The top three contributors to Operation Allied Force in terms of sorties and aircraft deployed were the United States, France, and the United Kingdom.[49] During the operation itself, most of the contributions by allies were made in terms of allied airfields, overflight rights, logistical support, and peacekeeping troops after Operation Allied Force concluded.[50] Thirteen of the 19 member states contributed aircraft to the operation. Of the approximately 38,000 sorties flown, including those flown by airlifters, the United States flew over 29,000 while deploying more than 700 aircraft; France deployed about 100 aircraft and flew approximately 2,414 sorties;

the United Kingdom was the second largest contributor of aircraft and flew about 1,950 sorties; the Netherlands flew approximately 1,252 sorties; Italy was the third largest contributor of aircraft and flew about 1,081 sorties; Germany flew about 636 sorties.[51]

Operation Allied Force cost the United States $3.1 billion in incremental funds.[52] The United States provided about 70 percent of the aircraft for the operation and about 60 percent of the sorties during the operation[53], while the Europeans provided 56–70 percent of the peacekeeping troops after the air campaigns.[54] The Europeans, in summary,

> have consistently provided the majority of ground troops to support NATO operations and paramilitary specialists who are trained for post-conflict crisis interventions. European allies have also led efforts to support nonmilitary interventions, such as development assistance and personnel to support multilateral operations. Of the almost $15 billion, disbursed to the Balkans region from 1993 through 1999, the European Commission (EC) and European allies contributed about $10.2 billion, primarily to fund humanitarian and reconstruction programs such as rebuilding airports, bridges, and roads. During this same period, the US distributed about $1.2 billion, primarily for emergency relief and institution building. European allies have consistently provided a large number of civilians to support multilateral institution-building programs in the Balkans, including more than 2,000 U.N. civilian police.[55]

Burden sharing in NATO more generally has been an issue of contention during the history of the alliance. As the DoD reported in its annual assessment of allied contributions to defense, the United States pays one-quarter of the NATO common-funded budgets in which all 19 members participated at the time of Operation Allied Force.[56]

The absence of a strong European strategic transport and logistics capability alone meant that the United States had to undertake the lion's share of the Kosovo campaign. Operation Allied Force also revealed a serious technology gap between the United States and Europe:

> More than 70 percent of the fire-power deployed was American. Only a handful of European allies had laser-guided bombs, and only Britain was able to contribute cruise missiles. Barely 10 percent of European aircraft are capable of precision bombing and of the European members of NATO, only France was able to make a significant contribution to high-level bombing raids at night. Only the United States could contribute strategic bombers and stealth aircraft for enhanced power projection. European allies also critically lacked reconnaissance and surveillance aircraft.[57]

Table 2: NATO's common-funded budgets, 2000*
(2000 dollars in millions; 2000 exchange rates)

Member	*NATO Security & Investment Program*	*Percent of NATO Security & Investment Program*	*Military Budget*	*Percent of Total Military Budget***	*Civil Budget*	*Percent of Total Civil Budget*	*TOTAL NATO Common Budgets*	*Percent of TOTAL NATO Common Budget***
Belgium	23.2	4.3 %	13.9	3.1 %	3.6	2.8 %	40.7	3.6 %
Canada	20.4	3.7 %	25.6	5.7 %	7.0	5.4 %	53.0	4.7 %
Czech Republic	3.1	0.6 %	4.5	1.0 %	1.2	0.9 %	8.8	0.8 %
Denmark	18.6	3.4 %	8.2	1.8 %	1.9	1.5 %	28.7	2.6 %
France	29.1	5.3 %	28.2	6.3 %	20.0	15.3 %	77.3	6.9 %
Germany	126.7	23.2 %	76.9	17.1 %	20.2	15.5 %	223.8	19.9 %
Greece	5.4	1.0 %	1.9	0.4 %	0.5	0.4 %	7.8	0.7 %
Hungary	2.3	0.4 %	3.3	0.7 %	0.8	0.6 %	6.4	0.6 %
Iceland	0.0	0.0 %	0.2	0.0 %	0.1	0.1 %	0.3	0.0 %
Italy	46.2	8.5 %	29.7	6.6 %	7.5	5.8 %	83.4	7.4 %
Luxembourg	1.1	0.2 %	0.4	0.1 %	0.1	0.1 %	1.6	0.1 %
Netherlands	25.7	4.7 %	13.9	3.1 %	3.6	2.8 %	43.2	3.8 %
Norway	15.9	2.9 %	5.7	1.3 %	1.4	1.1 %	23.0	2.0 %
Poland	8.6	1.6 %	12.4	2.8 %	3.2	2.5 %	24.2	2.2 %
Portugal	1.9	0.3 %	3.2	0.7 %	0.8	0.6 %	5.9	0.5 %
Spain	13.8	2.5 %	17.6	3.9 %	4.6	3.5 %	36.0	3.2 %
Turkey	5.8	1.1 %	8.0	1.8 %	2.1	1.6 %	15.9	1.4 %
United Kingdom	61.1	11.2 %	80.4	17.9 %	22.5	17.3 %	164.0	14.6 %
United States	136.3	25.0 %	115.6	25.7 %	29.2	22.4 %	281.1	25.0 %
Total	545.2	100.0 %	449.6	100.0 %	130.3	100.0 %	1125.1	100.0 %

*Due to rounding, the numbers shown may not add up to the totals.
**Calculation does not include contributions to the NATO Airborne Early Warning and Control Program.

Source: Department of Defense, Allied Contributions to Defense 2001.

The United States' superiority in information systems made it difficult to communicate with their allies. In other words, despite the fact that NATO was a long-standing alliance, interoperability issues were nevertheless critical.

Findings

The proposition that long-standing, highly institutionalized alliances will be less flexible and overly rigid for effective wartime operations was supported by the cases of the Persian Gulf War and the Kosovo campaign. In the first, a large, ad hoc coalition of countries of widely disparate capabilities and cultures produced a more cohesive and effective war-fighting mechanism than the largely Western, long-standing military alliance of mostly great powers represented by NATO in Operation Allied Force.

Because the former coalition could be tailored to the direct needs of the countries in question for the mission at hand, the member states were able to come together in a unified way. The immediate threat posed by Saddam Hussein's invasion was the galvanizing force that produced an effective response. Substantial attention was paid to designing an operationally effective institution to meet the challenges of the tasks at hand. The parallel decision-making structure, communication between the two decision-making hierarchies, and meticulous attention to cultural sensitivities all served to facilitate the effectiveness and cohesion of the coalition.[58]

The parallel decision-making structure in NATO did not work as well. It signaled to its long-standing allies that the United States stood apart from the NATO hierarchy. Part of the problem was, while the Gulf War coalition could operate with countries acting in tandem rather than in an integrated fashion, NATO had no such possibility. Because political considerations during peacetime guided the institutional structure, operational effectiveness was secondary. Further, the NATO chain of command was ineffective in action, SACEUR Wesley Clark was unable to command the authority he would have been able to command had the operation been executed solely by the Americans.[59] The decision-making procedures were highly ineffective, not at all conducive to a crisis or wartime situation.[60]

The security threat posed to the coalition members in the first Gulf War in contrast to the humanitarian challenge posed to NATO in the Kosovo campaign also affected operations. The security threat galvanized the coalition, gave the member states a clear objective, and helped them understand their central

Table 3: Summary of findings

	Threat	Burden Sharing	Coalition or Alliance	Cohesion
First Gulf War Coalition in Operation Desert Shield/ Desert Storm	Immediate threat perceived by some contributors to coalition, though not to all	US largest contributor, especially in terms of forces, but other countries offset US incremental costs in terms of money to fight war.	Coalition	Cohesion relatively easy to maintain and sustain
NATO in Operation Allied Force	Humanitarian crisis that posed threat of regional instability to some member states	US bore brunt of costs to Operation Allied Force, though European allies bore brunt of peacekeeping costs in the wake of Operation Allied Force	Alliance	Cohesion more difficult to maintain and sustain

goals and decide on strategies for attaining those goals. The humanitarian threat in Kosovo did not culminate in a similar benefit for NATO member states. As the alliance faced a humanitarian crisis in its own backyard in the aftermath of the Cold War on the eve of its 50th anniversary, there was a belief that something needed to be done to show that its utility was enduring. These were political rather than military or operational objectives, however. Further, defining these objectives clearly, let alone specifying strategies for attaining those objectives, was difficult. The United States really was the only country with the capability to undertake the mission, yet it did not want to commit ground troops. The European states wanted control of the situation but were technologically not in a place to do so. The Kosovo campaign revealed fissures in the alliance rather than provide a template for its future.

Operation Allied Force struggled more with cohesion than the first Gulf War coalition. The emphasis on political effectiveness came at the expense of operational effectiveness. In addition, the absence of a clear and present threat felt equally by all and the alliance apparatus both worked to the detriment of cohesion within the coalition. The Gulf War coalition—despite being an ad hoc coalition with possible interoperability problems, definite asymmetries within the coalition, and a lack of experience in working together—was effective and cohesive. The coalition worked effectively, despite some interoperability challenges, as a consequence of the clear objectives that allowed the parallel decision-making structure to work. The Gulf War was sanctioned by the United Nations; Operation Allied Force was not. While this did not have much effect on the operations themselves, the sanction of the UN, which is a manifestation of global support for an operation, may bear on the institutional arrangements that are selected to prosecute the operations. In other words, when the UN sanctions action, states may forge an international coalition designed to address the mission at hand instead of relying on a preexisting regional alliance. However, the factors that give rise to UN sanction—such as global legitimacy and support for the mission, a universally understood threat, or a clear violation of an international norm uniformly valued by the international community—are more important than the sanction itself.

Today's Wars

While far deeper and more extensive research on the current wars in Iraq and Afghanistan would be necessary to make unqualified assertions

regarding institutional structure, burden sharing, and cohesion, these cases, too, offer at least superficial support for the ideas contained in this article. Above all, it is clear that the choice of institutional mechanism matters powerfully in war-fighting effectiveness.

Fighting the war in Afghanistan principally via NATO has culminated in high friendly-fire casualty rates and constant negotiating with allies regarding burden sharing.[61] The multilayered command structure also offers some challenges. For example, from 2008 to 2009, the International Security Assistance Force (ISAF), which consisted of about 45,000 troops, including around 15,000 US troops, was under the command of GEN David D. McKiernan, while another 19,000 or so US troops were assigned to Combined Joint Task Force 101, part of Operation Enduring Freedom, under the command of MG Jeffrey J. Schloesser. While many of these complexities changed over the course of the operations, above all they revealed the difficulties in transitioning a peacetime alliance structure to wartime. These difficulties are also clearly understood in the issue of caveats. The issue of caveats has plagued the ISAF. Some 50–80 known caveats limit NATO commanders in their operations in Afghanistan. This profoundly affects operational flexibility and heightens burden sharing problems. In other words, some countries' troops occupy space on the ground and provide international legitimacy but make little difference operationally.[62]

In Iraq, the large coalition at the outset of Operation Iraqi Freedom created challenges in terms of institutional structure as well. The force levels of participating countries varied dramatically, as did the division of labor. While the large coalition made it appear that the operation had widespread support around the globe, in fact the United States paid dearly in lives and treasure to ensure even the smallest countries were well compensated. Partner nations were constricted by their different rules of engagement, and the force size varied dramatically among participating states. Yet we see that the coalition adapts over time to the changing situation on the ground. The Multinational Force–Iraq replaced the Combined Joint Task Force 7 and then became US Forces–Iraq in January 2010.[63]

Iraq and Afghanistan offer us more evidence that alliance and coalition design impinge on fighting effectiveness and cohesion. As these cases draw to their inevitable conclusions, more insights will be possible in regard to the principal arguments offered in this article.

Conclusions and Policy Recommendations

Military alliances—and coalitions—are complex in their operation during wartime. Decision-making structures that foster cohesion and consensus during peacetime hinder wartime operations. The institutionalization of alliances that enhance transparency and facilitate cooperation in peacetime may serve to undermine fighting effectiveness during wartime. Further, alliances that are created in peacetime and operate during wartime may nevertheless suffer from significant interoperability issues.

Coalitions that are constructed when war is imminent to address a clear and present threat, a threat that is perceived keenly by participating states, may operate effectively when designed appropriately. The aim of coalitions is often operational effectiveness, in contrast to alliances, which may focus more on the political dimensions of effectiveness. In the case of the first Gulf War, cultural sensitivities culminated in a decision-making system that worked effectively, especially since attention was paid to staff integration and communication. The absence of political infrastructure in coalitions, ironically, makes operational military cooperation easier. More flexibility and adaptability in design are possible. Strong states can then use coalitions when they want to fight wars efficiently and alliances when they are more concerned about managing broader political issues. For example, the United States may choose NATO as its vehicle in Kosovo and Afghanistan because it wants Europe to be invested in state building, more so than in fighting an enemy that, militarily, is quite weak.[64] In addition, one reason that wartime alliances struggle more with cohesion—especially regarding strategies, not necessarily end goals—is that *they generally require a greater level of integration than do coalitions.* The demands on such an institutional structure are far greater and likely to create more difficulties in implementing plans for war. While in the Kosovo case these conflicts did not frustrate NATO's ability to achieve its goals, the path toward achieving them was difficult.

The lessons here bear on the nature of multilateralism and the design of contemporary coalitions.[65] Cohesion is fostered and maintained during wartime by clear objectives, threats that are perceived similarly by member states, and when attention is paid to cultural differences; even in the absence of a unified chain of command, effective staff integration is manifest. The implications here are that NATO is a highly useful alliance with great utility during peacetime because of its focus on political effectiveness. During wartime, more flexible and adaptable institutional structures are necessary

for effective war prosecution; more emphasis on operational effectiveness is necessary.

The policy implications are straightforward. First, coalitional war fighting does not guarantee legitimacy. Having a UN sanction is important, because it is an indicator of global legitimacy. In the absence of that legitimacy, no matter how large a coalition may be, that legitimacy will not be manifest. Second, when states' participation involves caveats and overly restrictive rules of engagement, the United States may want to assess the implications on operational flexibility before the mission gets underway. Above all, it would serve well to take a closer look at American reliance on multilateral war fighting and develop benchmarks to determine whether or not forging a coalition or reshaping an alliance makes sense to address the issue at hand. Of course we cannot make absolute assertions regarding when alliances or coalitions should be used in warfare; however, a close look at coalition size and subsidies to partners is absolutely warranted. The United States should employ coalition warfare whenever doing so reduces the costs of war in terms of lives and treasure. War-fighting capacity is the most important criterion. Flexible coalitions of modest size are likely the answer. Retaining our alliances and deepening our commitment to them in peacetime is absolutely in our interest. How we adjust and transform those institutions under conditions of wartime is conditional on the mission at hand.

Studies of military alliances in international relations tell us a great deal about the way these alliances are formed, maintained, and managed. Much work remains to better understand how those alliances, once formed, operate during war and how they differ from ad hoc coalitions formed to perform specific missions. Understanding the nuances and complexities of interstate relations, be they within alliances, coalitions, or between these institutions and their enemies is critical to success in the future. SSQ

Notes

1. Graeme Smith, "The War on the Walls," *Globe and Mail*, 29 November 2007.

2. See Kenneth Waltz, *Theory of International Politics* (Reading: Addison-Wesley Publishing Co.,1979); Stephen Walt, *Origins of Alliances* (Ithaca: Cornell University Press, 1987); Patricia Weitsman, *Dangerous Alliances: Proponents of Peace, Weapons of War* (Palo Alto: Stanford University Press, 2004); Michael C. Williams, "The Institutions of Security: Elements of a Theory of Security Organizations," *Cooperation and Conflict* 32, no. 3 (1997): 287–307; M. C. Williams and Iver B. Neuman, "From Alliance to Security Community: NATO, Russia, and the Power of Identity," *Millennium: Journal of International Studies* 29, no. 2 (2000): 357–87; and Vincent

Pouliot, "The Alive and Well Transatlantic Security Community: A Theoretical Reply to Michael Cox," *European Journal of International Relations* 12, no. 1 (2006): 119–27.

3. Nora Bensahel, *The Counterterror Coalitions: Cooperation with Europe, NATO, and the European Union* (Washington: RAND, 2003); Glenn H. Snyder, "The Security Dilemma in Alliance Politics," *World Politics* 36, no. 4 (1984): 461–95; Snyder, *Alliance Politics* (Ithaca: Cornell University Press, 1997); and Weitsman, *Dangerous Alliances*.

4. Peacetime alliances are just formal or informal agreements between two or more states intended to further (militarily) the national security of the participating states, operating when the signatories are not at war. If war begins and the alliance does not dissolve, it transitions into a wartime alliance. If the alliance endures beyond the war, it reverts to a peacetime alliance.

5. Weitsman, *Dangerous Alliances*, 35.

6. Or out of a desire to craft a response to an international crisis in a way that strengthens global institutions such as the UN so that it might become more effective in other issue areas as well. I am grateful to Nora Bensahel for this point.

7. Frank Walker, "Our Pilots Refused to Bomb 40 Times," *Sydney Morning Herald*, 14 March 2004.

8. This is a strategy that is not without costs—those alliances may be undermined by an unsuccessful or conflict-fraught wartime mission.

9. USCENTCOM, http://www.centcom.mil/en/about-centcom/our-history/.

10. US Department of Defense (DoD), *Final Report to Congress: Conduct of the Persian Gulf War* (Washington: DoD, 1992), 60.

11. Ibid., 62–64.

12. USCENTCOM, "Operation Desert Shield/Desert Storm, Executive Summary," 1992 (Declassified), 1.

13. DoD, *Final Report to Congress*, 59-60. Appendix P of this report, pp. 723–31, provides detailed information about the financial and in-kind assistance contributed by coalition partners.

14. I operationalize cohesion as I do in "Intimate Enemies: The Politics of Peacetime Alliances" (*Security Studies* 7, no. 1 [1997]:156–92) and *Dangerous Alliances*, as the ability to agree on goals and strategies to attain those goals.

15. Nora Bensahel, "The Coalition Paradox: The Politics of Military Cooperation" (PhD diss., Stanford University, 1999), 50.

16. USCENTCOM, "Operation Desert Shield/Desert Storm," 6. For a flowchart explaining these relationships, see Khaled bin Sultan, *Desert Warrior* (New York: HarperCollins, 1995), 244–47.

17. Peter de la Billiére, *Storm Command: A Personal Account of the Gulf War* (New York: HarperCollins. 1992), 303. Khaled bin Sultan reports that "working in parallel, Schwarzkopf and I were often in close and instant agreement. Sometimes, however, we disagreed significantly, and at other times we were obliged to negotiate with each other to reach a compromise. He was not an easy man to deal with, but neither was I." Bin Sultan, *Desert Warrior*, 191. See also 200–204.

18. USCENTCOM, "Operation Desert Shield/Desert Storm," 7. These were parallel, though not equivalent, since the US force commitment was so much larger than anyone else's. See bin Sultan, *Desert Warrior*, 193–97.

19. USCENTCOM, "Operation Desert Shield/Desert Storm," 11.

20. Bensahel, *Coalition Paradox*, 73.

21. USCENTCOM, "Operation Desert Shield/Desert Storm," 570.

22. Bensahel, *Coalition Paradox*, 60–61; and DoD, *Final Report to Congress*, 494, 559. Bensahel compellingly argues that one of the most important reasons the coalition worked was because of the ineffectiveness of Iraqi troops on the ground.

23. Bensahel, *Coalition Paradox*, 90; and G. W. Bush and Brent Scowcroft, *A World Transformed* (New York: Alfred A. Knopf, 1998), 342.

24. Bin Sultan, *Desert Warrior*, 32, 265. See also bin Sultan's account of his "duels" with French minister of defense Chevènement (ibid., chap. 26).

25. See P. A. Weitsman, "With a Little Help from our Friends? The Costs of Coalition Warfare," *Origins: Current Events in Historical Perspective* 3, no. 1 (2009): 1–13.

26. Incremental rather than total costs are a better estimate of costs incurred by the United States. Total costs include expenditures the United States would have incurred even if Operation Desert Shield/Desert Storm had not been undertaken, e.g., regular pay of active duty military personnel. Incremental costs are those incurred specifically because of the operations, e.g., imminent danger pay to reservists, less normal drill pay. Government Accountability Office (GAO), "Operation Desert Shield/Storm: Update on Costs and Funding Requirements," GAO-NSIAD-92-194, May 1992, 2. See bin Sultan, *Desert Warrior*, chap. 17, for a discussion of the unique contributions of Saudi Arabia and, in contrast, H. Norman Schwarzkopf, *It Doesn't Take a Hero* (New York: Bantam Books, 1992), chaps. 19–20.

27. USCENTCOM, "Operation Desert Shield/Desert Storm," 1.

28. See K. L. Terasawa and W. R. Gates, "Burden sharing in the Persian Gulf: Lessons Learned and Implications for the Future," *Defense Analysis* 9 (1993): 171–95, for troop deployments by country.

29. See P. A. Weitsman, "The High Price of Friendship," *New York Times*, 31 August 2006.

30. Terasawa and Gates, "Burden sharing in the Persian Gulf"; and A. Bennett, J. Lepgold, and D. Unger, "Burden Sharing in the Persian Gulf War," *International Organization* 48, no. 1 (1994): 39–75.

31. Benjamin S. Lambeth, *NATO's Air War for Kosovo: A Strategic and Operational Assessment* (Washington: RAND, 2001), 10.

32. Wesley Clark, *Waging Modern War: Bosnia, Kosovo, and the Future of Combat* (New York: Public Affairs, 2002), 168–69. The decision to fight an air war was highly consequential, resulting in exacerbated conflict on the ground. See Michael Ignatieff, *Virtual War: Kosovo and Beyond* (New York: MacMillan, 2001), 96, on Clark's failure to anticipate this response.

33. Daily reports on developments during the campaign can be found at http://www.nato.int/kosovo/all-frce.htm.

34. Belgium, Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, Spain, Turkey, the United Kingdom, and the United States. The three newest member states, Czech Republic, Hungary, and Poland, became full members of NATO less than two weeks before Operation Allied Force began.

35. GAO, "Operation Desert Shield/Storm," 6.

36. Ibid., 4.

37. Thanks to Nora Bensahel for pointing this out.

38. The action took place on the eve of NATO's 50th anniversary, which was symbolically very important.

39. Lambeth, *NATO's Air War for Kosovo*, 207, 185.)

40. John Peters et al, *European Contributions to Operation Allied Force* (Washington: Rand, 2001), 25–26.

41. Ibid., 28.

42. Paul C. Strickland, "USAF Aerospace—Power Doctrine: Decisive or Coercive? NATO's War over Kosovo, Yugoslavia: The Role of Air Power," *Aerospace Power Journal* (Fall 2000).

43. Peters et al, *European Contributions to Operation Allied Force*, 26.

44. Ibid., 40.

45. See Bensahel, *Coalition Paradox*; and Lambeth, *NATO's Air War for Kosovo*, 204–8.

46. Clark, *Waging Modern War*, 175–76.

47. Ibid., 385, 396–99.

48. GAO, "Operation Desert Shield/Storm."

49. A normal day during Operation Allied Force saw perhaps 500 aircraft taking off from 47 bases across Europe, refueling midair, undertaking bombing missions, refueling again, returning, and taking off for another bombing mission for a total of some 35,000 sorties. James A. Kitfield, "Another Look at the Air War that Was," *Air Force Magazine* 82, no. 10 (1999).

50. John A. Tirpak, "The NATO Way of War," *Air Force Magazine* 82, no. 12 (1999).

51. Peters et al., *European Contributions to Operation Allied Force*, 18–24.

52. GAO, "Military Operations," 1999, 2.

53. GAO, "Kosovo Air Operations: Need to Maintain Alliance Cohesion Resulted in Doctrinal Departures," GAO-01-784 (Washington: GAO, 2001), 3.

54. GAO, "Kosovo Air Operations; and GAO, "European Security," GAO-02-174 (Washington: GAO, 2002), 1.

55. GAO, "European Security," 51.

56. DoD, *Final Report to Congress*, chap. II.

57. Elinor Sloan, "DCI: Responding to the US-led Revolution in Military Affairs." *NATO Review* 48, no. 1 (2000): 4.

58. It is also important to note here that NATO member states played an important role in the Gulf War coalition and no doubt facilitated the effectiveness of the coalition. The NATO decision-making structure was not used in the coalition, but nevertheless the long-standing relationships of some of the states in the coalition should be recognized. On the issue of cultural sensitivities, see Schwarzkopf, *It Doesn't Take a Hero*, chap. 18.

59. Each member state retained a significant degree of national control, which is not simply an indictment of the command structure per se, but speaks instead to the challenges of joint war fighting in general.

60. As Bensahel argues, it is the experience in Kosovo that gives rise to bilateral agreements between the United States and its allies in fighting its subsequent wars.

61. Weitsman, "With a Little Help from our Friends?"; and Mark Landler and Steven Erlanger, "Clinton to Press NATO Allies on Afghanistan Effort," *New York Times*, 4 December 2009.

62. David P. Auerswald and Stephen M. Saideman, "Caveats Emptor: Multilateralism at War in Afghanistan" (paper presented at the annual meeting of the International Studies Association, February 2009); and Auerswald and Saideman, "NATO at War: Understanding the Challenges of Caveats in Afghanistan" (paper presented at annual meeting of the American Political Science Association, 3–6 September 2009).

63. For more, see http://www.mnf-iraq.com/.

64. My thanks to J. Samuel Barkin for underscoring this point.

65. See Bensahel, *Coalition Paradox*.

2010 CSAF Reading List

First Quarter Recommendations from General Schwartz

LeMay: The Life and Wars of General Curtis LeMay, by Warren Kozak, traces the life of General LeMay, from his firebombing of Tokyo and guardianship of the US nuclear arsenal in the Cold War to his frustrated career in government and short-lived political run.

In the Graveyard of Empires: America's War in Afghanistan, by Seth Jones, provides a historical review of Soviet and US experiences in Afghanistan but also assesses Pakistan's role and potential in securing Afghanistan.

A History of Air Warfare, by John A. Olsen, is a comprehensive analysis, through a compilation of 16 essays from leading military writers, of the role that airpower has played in military conflicts during the last century.

Cyberdeterrence and Cyberwar, by Martin C. Libicki, addresses the differences between cyberwar and war in other mediums, and describes ways that the United States could protect itself in the face of attack.

Other Books in This Year's Reading List

The Accidental Guerrilla: Fighting Small Wars in the Midst of a Big One by David Kilcullen

Wired for War: The Robotics Revolution and Conflict in the 21st Century by P. W. Singer

On Nuclear Terrorism by Michael Levi

MacArthur's Airman: General George C. Kenney and the War in the Southwest Pacific by Thomas E. Griffith

A Fiery Peace in a Cold War: Bernard Schriever and the Ultimate Weapon by Neil Sheehan

Daring Young Men: The Heroism and Triumph of the Berlin Airlift, June 1948 – May 1949 by Richard Reeves

7 Deadly Scenarios: A Military Futurist Explores War in the 21st Century by Andrew Krepinevich

Guardians of the Revolution: Iran and the World in the Age of the Ayatollahs by Ray Takeyh

Rivals: How the Power Struggle between China, India and Japan Will Shape Our Next Decade by Bill Emmott

for more information

http://www.af.mil/information/csafreading/index.asp

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- The first section of the analysis should normally be the shortest and indicate the type of book (biography, anthology, history, monograph, etc.). Include a very short author biographic citation and then describe the context of the book in the literature of the field. Again, this section should be brief.
- Next, thoroughly analyze the thesis and arguments in the work. What are the strong points of the argument? What are the limitations in the work, including author biases? Is the thesis supported? What are the implications of the argument? Are there any profound aspects of the book? This section will be the longest part of the analysis.
- Finally, the analysis should finish with recommendations for improvement. Clearly state whether this book is worth reading, who may find this book most interesting, and why.

Administrative Guidelines

All books are free to reviewers. Each analysis must be submitted electronically (in MS Word.doc format) within 45 days of book receipt. Limit your text to approximately 1,000 words, carefully edited. Select titles will be published in the *SSQ* on a space available basis. All others will be published online. Analyses may be edited for length and style.

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Book Reviews

Fixing Failed States: A Framework for Rebuilding a Fractured World by Ashraf Ghani and Clare Lockhart. Oxford University Press, 2008, 264 pp., $24.95.

Ashraf Ghani, former finance minister of Afghanistan, and Clare Lockhart, development policy expert and former United Nations adviser to Afghanistan—both now leading the Institute for State Effectiveness, which they founded—address the pervasive problem of failing states around the world, noting that some 40 to 60 states are on the verge of collapse unless developed nations and international institutions intervene. Advancing failed states into the contemporary globalized world is an imperative that commands collective action. The authors profess that the unprecedented glut of global financial capital (a surprising revelation to me) should be utilized in an integrated, well-conceived plan, supported by an enduring commitment to circumvent this dire situation. They further believe there is enough experience and wherewithal in the world today to tackle state disorder, poverty, and exclusion.

Ghani and Lockhart suggest that the post–WWII state-building models practiced today by institutions such as the International Monetary Fund (IMF), World Bank Group, UN, and nongovernmental organizations, are outdated and ineffective and must be overhauled for state building to succeed going forward. They cite numerous examples of disconnected and unnecessary projects along with examples of squandered money to emphasize this point. The authors propose what they think is a much-needed paradigm shift for state building—offering a strategic framework for defining the functions of the state, a sovereignty strategy that involves formulating a strategy, the organizational structure to perform state functions, and aligning international organizations and institutions to support sustainable state building.

In building their case that failed states can transform utilizing their modeled framework, Ghani and Lockhart present historical examples of successful state transformation (post–WWII Europe, the southern United States, Ireland, and Singapore). They assert that the success of these countries/regions epitomise that states facing extreme circumstances such as the ravages of war, political turmoil, and chronic poverty can actually evolve and integrate into the global community if led by visionary leaders who gain the support of the populace as well as financial and technical support from international institutions. The examples offered by the authors appear inappropriate in building their case. Other than Singapore, none of these states/regions was ever on the verge of collapse. They would have been better served by presenting cases of applicable current states in various stages of the state-building process from their professed exhaustive research. While they rightfully highlight numerous well-documented and accepted shortcomings of the

international aid and development system in support of the necessity for their paradigm shift, they add their own emotionally charged but unsubstantiated assertions of cross-institutional incompetence, present them as facts, and undermine their message and credibility in promoting constructive change.

I find the book too Afghan-centric and lacking in academic rigor. The authors rely too heavily on anecdotal evidence of "old system approach" failings and the successes in employing their framework in Afghanistan. In fact, they provide only administrative process–related successes without action/application–related results—likely because there are none. Furthermore, their work draws little upon the plethora of scholarly research and application that has been occurring over the last 20 years. It offers no concrete analysis, nor provides anything new or compelling to the body of knowledge regarding the increasingly critical subject of state building. Their ideas read merely as rediscovered then repackaged goods.

The easier state-building efforts—those readily supported by developed nations and international financial institutions—have already taken place. In contrast to what the authors believe, the majority of the states they indicate as needing integrated international support require intervention that would absolutely exhaust international capital long before successful completion. I need not remind anybody that the overwhelming majority of GDP growth occurring in Afghanistan is derived directly from international aid, assistance, and grants. If not for this continuous support, the Afghan government could not provide for even the most basic of services to its people, let alone prosper economically. Although an admirable ideology, Ghani and Lockhart's line of logic and approach throughout the book lacks an effectively articulated understanding of the complexities of international relations, the competing interests of states, the internal dynamics causing dysfunction within states, and the pragmatic cost-benefit analysis that ultimately rules the private/public sector in its investment decision process. There is no silver bullet out there. Those looking for a generalized think piece on state building from an idealist perspective should read this book; all others beware.

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Professor, US Army Command and General Staff College
Fort Leavenworth, Kansas

Assessing the Threat: The Chinese Military and Taiwan's Security edited by Michael D. Swaine, Andrew N. D. Yang, Evan S. Medeiros, and Oriana Skylar Mastro. Carnegie Endowment for International Peace, 2007, 413 pp., $22.95.

In the fall of 1949, as the victors of the Chinese Civil War were establishing the People's Republic of China (PRC) in Beijing, the vanquished had escaped to the island of Taiwan just off China's coast. A final, decisive battle never occurred because of US intervention on behalf of the non-communist government in Taiwan. Now, 60 years later this dangerous vestige of the Cold War remains. China claims sovereignty over Taiwan, the 23 million people of Taiwan claim the right to self-determination, and the United States remains precariously balanced in the

middle, deterring China from solving the issue by force and trying to keep Taiwan from provoking a Chinese attack that would ostensibly require a US response.

Over the past 30 years, China has experienced spectacular economic growth. However, many observers are alarmed that China is leveraging its economic gains to fuel a rapid military modernization program, leaving some to question its intentions in the Asia-Pacific region, particularly toward Taiwan. More specifically, will China's growing confidence in its military reach the point where the possibility of US intervention no longer deters an attack on Taiwan, upsetting the uneasy peace across the Taiwan Straits?

Much has been written about this subject, but few books are as comprehensive as *Assessing the Threat*. A collaboration of scholarly papers from some of the brightest China analysts, it is an objective, insightful, and thought-provoking analysis of the volatile situation in the Taiwan Straits. Contributors include senior China specialists from the Carnegie Endowment for International Peace, Taiwan's Council of Advanced Policy Studies, RAND, the CNA Corporation, the National War College, the Director of National Intelligence, the Defense Group, Inc., and the National Bureau of Asian Research, as well as accomplished scholars from the Institute for Defense Analyses and Harvard University. Each of the 11 papers examines the complicated environment surrounding Taiwan through three sets of variables: Chinese military capabilities compared with those of the United States and Taiwan, the ability to maintain stability and control escalation in a confrontation over Taiwan, and the influence of the broader security environment in Asia.

Assessing the Threat concludes that while the balance of power is not shifting in China's favor, there are factors that provide significant cause for concern. Using the DoD definition of power projection, Roy Kamphausen and Justin Liang illustrate how the Chinese military is projecting its power and influence in Asia by "responding to crises, contributing to deterrence, and enhancing regional stability" (p. 114). Andrew Yang laments that enhancing Taiwan's defensive capabilities in response to the growing Chinese threat is hampered by the Taipei government's indecision and lack of strategic vision.

A common theme echoed by contributors throughout the volume is their grave concern that misunderstandings on both sides could adversely affect crisis control or the ability to prevent a regional conflict from escalating. Kenneth Allen and Bernard Cole explore the assets and doctrine of the US, Chinese, and Taiwanese air forces and navies and warn that the "fog of war" may produce uncertainties that could spread a confrontation in the Taiwan Straits to mainland China and other Asian countries. James Mulvenon's discussion of information operations concludes that "the real danger of China's emerging military capabilities is that they may embolden Beijing to make a fundamental miscalculation in a Taiwan scenario and consequently bring about a disastrous outcome for all parties" (p. 260). Lonnie Henley's research on the Chinese concept of war control and crisis management indicates that many Chinese military theorists share a "naïve optimism about China's ability . . . to manipulate the scale, scope,

pace, intensity, and duration" of a crisis to improve the likelihood of its success (pp. 104–5). Lastly, Brad Roberts' investigation of the nuclear dimension of a US–PRC conflict comes to an alarming conclusion that "both sides are confident in their potentially flawed assumptions and in their belief that 'strong action will induce the enemy to exercise restraint'—both of which could lead to miscalculations in war" (p. 13).

Assessing the Threat offers several astute recommendations to reduce the threat of conflict over Taiwan, some of which are currently being implemented. The authors stress that US forces in the Pacific must continually improve their ability to "react swiftly and with sufficient force to deter or shut down a Chinese attack" (p. 22). The ongoing deployment of the newest and most sophisticated Air Force weapons systems throughout the theater, the multiservice military buildup of Guam, and the basing of the aircraft carrier *George Washington* in Japan are definitive upgrades to the US presence in Asia. Lastly, the authors propose that the United States and China improve mutual understanding through more military exchanges and establish rules of engagement for operations in the straits, which should enhance communication and make crisis signaling more discernable.

One would be hard pressed to find a more complete and intelligent analysis of the tense relationship between China, Taiwan, and the United States. The arguments in this outstanding book have been thoroughly researched and superbly written. *Assessing the Threat* is an invaluable reference for government and military leaders to understand the complexities involved in keeping this hot spot cold.

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Cultural Contestation in Ethnic Conflict by Marc Howard Ross. Cambridge University Press, 2007, 384 pp., $34.99.

Ethnic conflict makes headlines like nothing else. Civil war in Sri Lanka, the breakup of the former Yugoslavia, Tibetan and Uyghur independence movements in China, the Shiite-Sunni divisions in US-occupied Iraq, Muslim riots in France, tribe-centered election battles in Kenya, and the ongoing struggle between Palestine and Israel—these are just a few of the stories that have driven news cycles of recent years. The ubiquity and longevity of ethnic conflict often lead many consumers of media to believe that certain people "just can't get along," perhaps ascribing such conflict to inherent differences in the respective groups based upon a mythic past, such as the Jacob and Ishmael stories that underlie much of the common discourse on Arab-Jewish conflict. Unfortunately, few voices in the media seem interested in either addressing the real issues driving ethnic conflict or offering real-world solutions.

Enter Marc Howard Ross, renowned expert in the field of conflict management. His latest book, *Cultural Contestation in Ethnic Conflict*, examines how culture frames the interests of competing ethnic groups and how peace might be achieved

through broadening psychocultural narratives to include other points of view. He opens by discussing the dynamics of group identity, noting that cultural expressions, as reflectors of a group's worldview, can play a causal role in conflict as well as serve to exacerbate or inhibit it, depending upon exclusivity or inclusivity of their narratives. Narratives matter precisely because they are the stories through which a sense of communal identity is constructed, and thus they reveal how people understand the conflicts in which they are involved—what Ross calls *psychocultural dramas*, "polarizing events about non-negotiable cultural claims, threats, and/or rights that become important because of their connections to group narratives and core metaphors central to a group's identity" (p. 25). Citing the power of cultural expression in such ritualized performances as festivals and pilgrimages, Ross notes that, just as ritual can help perpetuate exclusivist narratives, it can also help conflicting groups "reframe or redefine the symbolic and emotional aspects of the conflict so that the parties can move beyond signed agreements and develop the institutions and practices needed to avoid future confrontations" (p. 86).

After the first three chapters, in which Ross outlines his theories on the role of narrative in conflict and conflict management, follow seven chapters offering concise case studies that detail how these dynamics work across the world—in instances where conflict has been actively abated and where it remains—beginning with Loyalist parades in Northern Ireland. Here, Ross contrasts Protestant parades in Portadown and Derry, demonstrating how the latter have grown into a more inclusive community celebration involving both Protestants and Catholics due to an opening of the central narrative of the parade, while the former remains a focus of political resistance. Next he analyzes Catalonia's status as an independent and linguistically unique state within Spain and enumerates the various policies of the central Spanish government that have lowered the potential for ethnic conflict, even though language serves as the focal point for violent resistance elsewhere in the world, as in Sri Lanka. The issue of archaeological exploration on the Temple Mount in Jerusalem serves as a microcosm of the conflict between Israel and Palestine, illustrating how each "selectively utilizes historical references to bolster its position in building a non-linear argument. Time collapse is far more prominent than continuity" (p. 187).

In chapters that could be paired side by side, Ross analyzes the French headscarf ban targeting Muslim students in light of the various Republican narratives that underlie French national identity, while later he looks at the controversies surrounding the public display of the Confederate battle flag, with all its separatist and racist implications, in the context of race relations and the far different conception of national identity at work in the United States. Two final chapters are devoted to cultural contestation issues in South Africa, the first focusing upon the reinterpretation of older heritage sites that served the narratives of the ruling whites, and the second detailing the creation of new sites offering a presentation of the black experience in the nation. The book is illustrated throughout with pictures, maps, and two very helpful multipage charts that delineate the events most entrenched in the narratives of the Northern Ireland and Israel-Palestine conflicts.

"Political analyses tend to ignore, dismiss, or under-theorize the role that identity and emotional framing play in long-term conflicts," Ross writes in conclusion (p 312). Indeed, most analysts tend to present long-standing cultural narratives either as mere fronts, schemas of political posturing designed to secure political advantage for a select few, or as markers of irrationality for cultures too backward to devote time and effort in concerning themselves with the "real" issues of economics and power. Such simplifications only serve to undermine the attempt to paint a larger, strategic portrait of ethnic conflicts in the world at large and therefore diminish the chance of transforming zones of disaccord into truly peaceful regions. This is where scholars such as Marc Howard Ross serve a noble purpose. The key arguments of *Cultural Contestation in Ethnic Conflict* are backed up by Ross' many decades of work into conflict management and the research he has conducted the world over. In this book, he offers more than just a set of academic musings—these are real guidelines for achieving peace and strategic stability, and those whose business is such would ignore his offerings not just at their own peril but at all of ours.

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America and Europe After 9/11 and Iraq: The Great Divide (rev. ed.) by Sarwar Kashmeri. Potomac Books, 2008, 176 pp., $16.95.

Each national election cycle nourishes the growth of a new crop of policy recommendations aimed at future administrations—just as outgoing administrations tend to produce rich harvests of tell-all books and memoirs. Whatever influence these publications achieve is in large part a product of placement and timing. Published in 2008 (updating a 2007 edition), Kashmeri's book should be judged mainly by the circumstances of the time in which it was written. Although some of what he writes has been overtaken by subsequent developments, the core of his argument about the crisis in the transatlantic relationship still contains an essential kernel of truth: namely, that the poor state of political relations that quickly developed between the United States and Europe over the US invasion of Iraq was not simply the result of actions taken by the Bush administration but instead grew out of systemic problems that are deeper and unlikely to be solved by a simple change of personnel. Efforts aimed at creating a better and more effective transatlantic relationship, the author writes, require substantive changes in (primarily American) policies and practices.

With a background in engineering and information technologies and through his work as a strategic communications advisor to international corporations, Kashmeri approaches the topic largely from a business perspective. His experience as a corporate consultant and participation in numerous forums, bringing together American and European business leaders, public officials, and media representatives, has shaped his views on European-American relations. In particular his role in advising American businesses about the changes created by the introduction of the

euro appears to have proven a seminal moment in his appreciation of the growing divide between the Atlantic allies. It put into bold relief America's failure to comprehend "the political and economic dimensions of an integrated Europe" and the "independent political and economic interests" that resulted (p. xii). In short, the United States has not taken Europe as seriously as its increased power and influence would warrant.

Kashmeri's argument is directed primarily against the neoconservative/transformationalist "vision that dominates United States policy today" (p. 37), which gives little credence to traditional alliances or international institutions (like the UN), preferring instead a go-it-alone approach aimed at promoting the global spread of democracy. This he contrasts with traditionalist conservatives (many of whom were his interlocutors for the book: James Baker, Brent Scowcroft, Caspar Weinberger, as well as George H. W. Bush himself), who, Kashmeri says, "work with . . . friends and allies within international organizations" (p. 37). Kashmeri suggests that the policies pursued under Bush, the son, crystallized America's longer-term inattention to, indifference about, and even resistance against developments in Europe—which were in part due to a tendency to see Europe through a distinctively British ("special relationship") lens. He encourages US policymakers to seek greater accommodation and closer cooperation with Europe as a whole to deal properly with global challenges it cannot face alone.

Kashmeri points to neoconservative statements that a flourishing EU is not in the broader US interest and claims that neocons "proffer an American policy that actively promotes discord within the European Union's member states to weaken the Union" (p. 98). However, he fails to produce explicit evidence that any substantive policy flowed from this point of view. Although Europeans clearly believe this to be the case—and this in itself constitutes a problem for US policymakers—the author does not convincingly demonstrate that it is much more than a figment of the European imagination. More importantly, the insistence that the United States treat Europe as one rather than deal with member states individually overlooks the fact that Europe is not yet one but is to a degree still burdened by internal disagreements and structural deficiencies. Kashmeri tends to ignore the shortcomings on the European side (especially in the area of security) and focuses instead almost exclusively on what the United States must do to make things better.

Although his diagnosis of the state of transatlantic relations is accurate, his prescriptions for improving those relations are rather general and palliative. He hits on a key issue when he points out that an underlying source of the problems in the Euro-American relationship lies in the different perceptions of the "war on terror" on either side of the Atlantic and that, even more fundamentally, these perceptions flow from differing attitudes toward war in general (p. 43). And he is right in suggesting that a new consensus must be formulated with respect to the use of force. But his proposal for forging that consensus—the "demilitarization" of NATO and its transformation into a "transatlantic forum" for developing "rules of engagement"—suggests a decoupling of US-European military relations in hopes that "perhaps in the future a new military role for NATO might emerge"

(pp. 110–11). One wonders how any abstract consensus is to work if it is not driving new structures or shaping concrete actions. Similarly with his proposal that the "Iraq problem" be "internationalized" (pp. 107–8): though laudable in the abstract, it has proven a tough sell in reality.

Since the bulk of Kashmeri's argument reflects on circumstances as they existed at mid decade and is in turn shaped by them, one wonders how more recent events, especially the departure from the political stage by the neoconservatives and the rise of a Congress and White House controlled by Democrats, might modify his proposals. On the other hand, neoconservatism, as an expression of an American impulse to "secure the blessings of liberty to ourselves and our posterity," remains a fundamental strain of American political culture and, as such, is likely to continue to inform US policy in one fashion or another. At bottom, the United States will need to determine the degree to which a Europe that no longer looks to America for leadership but actively questions its leadership (p. 21) shares the values that underpin America's sense of itself in the world.

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The U.S. Nuclear Arsenal: A History of Weapons and Delivery Systems since 1945 by Norman Polmar and Robert S. Norris. Naval Institute Press, 2009, 296 pp., $49.95.

The U.S. Nuclear Arsenal provides a useful analysis of nuclear weapons deployed by the United States on land, sea, and in the air from the end of the Second World War until the present. Authors Norman Polmar and Robert Norris are recognized experts on the subject, the former having written on nuclear weapons development for the US Navy, Department of Energy, Defense Advanced Research Projects Agency, and Defense Nuclear Agency, while the latter is a senior research associate at the National Resources Defense Council.

The opening chapter provides a comprehensive historical overview, while ensuing chapters focus on nuclear warheads, strategic aircraft, tactical aircraft, strategic missiles, tactical missiles and rockets, artillery, and antisubmarine weapons, respectively. The text is well illustrated with numerous black-and-white photographs, and there is a glossary of abbreviations and acronyms. Appendices include the US nuclear stockpile, the effects of nuclear weapons, and a chart listing the numbers of ICBM, SLBM, and bomber launchers and warheads by year from 1945 to 2008. Primary sources are referenced throughout as well as recommended readings.

The initial analysis of the evolution of US nuclear weapon systems and doctrine explains their development and deployment by each service. Tactical as well as strategic applications of nuclear power are considered, such as the Davy Crockett recoilless rifle, designed to give battalion commanders a nuclear battlefield punch. The chapters on aircraft indicate that most Air Force, Navy, and Marine Corps warplanes were nuclear capable, and even the venerable World

War II–era *Essex*-class carriers had a nuclear capability in both attack and anti-submarine warfare roles. The authors note that all services incorporated nuclear weapons into their war-fighting doctrine at the strategic, operational, and tactical levels throughout the Cold War.

Air Force readers might take exception to the authors' view that the nuclear "triad" was a "term coined by the U.S. Air Force to rationalize the 'need' for three U.S. strategic offensive forces," first publicly used by Air Force chief of staff Gen John D. Ryan in 1970 to "help explain the continuing need for a manned strategic bomber" (p. 20). Polmar and Norris later state that "three factors argued against manned bombers," including the vulnerability of SAC bases to Soviet SLBM (submarine-launched ballistic missile) attack, the "fallacy of a principal Air Force argument from manned bombers: that they could be recalled," and the effectiveness of Soviet SAMs (surface-to-air missiles) in Vietnam and the Middle East, which "led many government officials and bomber opponents to argue that the large and modern Soviet air defense network made strategic bombers obsolete." (p. 30). They clearly question the value of the Air Force's ICBM fleet as well:

> A factor in U.S. Minuteman-Titan ICBM effectiveness was the question of reliability. Of the three components of the Triad, the land-based ICBMs were the only force that was not extensively tested. Bombers regularly took off, flew missions, and dropped bombs; prior to test-ban agreements, bombers dropped nuclear weapons (and dummy bombs) in full-system tests. Similarly, submarines regularly fired unarmed ballistic missiles—sans warheads—on test ranges; and on 6 May 1962, the USS *Ethan Allen* (SSBN 608) fired a Polaris A-1 missile almost 1,200 nautical miles in the Pacific with a nuclear detonation. This was the only full-system test of a U.S. nuclear-armed ICBM/IRBM/SLBM missile from an "operational" silo.
>
> No nuclear-armed ICBM has been launched from an operational silo. Periodically, the silo crews fired various ICBMs from test facilities at the Vandenberg Air Force Base in California and from Cape Kennedy [*sic*] in Florida under highly controlled conditions. But even periodic efforts to launch an ICBM with reduced fuel and no warhead from an operational silo have failed, and Congress has refused approval of full-range test firings from an operational silo that would take even an unarmed missile over urban areas. (p. 16)

These passages left this reviewer with nagging questions. As the authors note, "The first Minuteman IA was placed on alert . . . in the midst of the Cuban missile crisis" (p. 171). While the current Minuteman III is continuously upgraded, it sits in remote silos in regions subject to highly adverse weather conditions, and those launch facilities were built close to half a century ago. They might be constantly monitored by disciplined crews, serviced by dedicated maintenance personnel, and guarded by diligent security forces, but how many of these weapon systems are actually capable of fulfilling their mission in intricate SIOPs (strategic integrated operations plans) as expected?

Given the current effort to restore the focus on the nuclear mission degraded since the end of the Cold War and the Obama administration's stated commitment to disarmament, the publication of *The U.S. Nuclear Arsenal* is timely

indeed. While some readers may find parts of the book discomforting, Polmar and Norris provide an informed perspective worthy of serious consideration.

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US Competitiveness in Science and Technology by Titus Galama and James Hosek. RAND, 2008, 152 pp., $32.00.

With a clinical thoroughness characteristic of other works from the RAND Corporation, *US Competitiveness in Science and Technology* takes a deep look into questions concerning the future of America's science and engineering capacity. The report explores the factors affecting US competitiveness in science and technology (S&T), both globally and domestically.

On a global perspective, the report compares historical data on US scientific and engineering development against similar data from other technological nations—Russia, India, China, Japan, South Korea, and the European Union. Galama and Hosek reviewed such factors as where international students earn scientific and engineering degrees, what countries they choose in which to use those degrees upon graduation, and what countries are most conducive to research and publication, whereupon they drew favorable conclusions concerning our country's ability to compete globally in technology development. They also explore whether the United States will continue to compete favorably in attracting and retaining a distinguished international S&T workforce.

Turning their analysis inward, the authors investigate the question of whether the United States is doing enough domestically to maintain its role as a fertile ground for growing scientists and engineers. In reaching this subject, they break down the US investment in private and public research and development, the viability of the US education system in producing graduates enthusiastic about careers in science and technology, and finally the job environment and career potential for scientists and engineers in the United States. Here, too, there are optimistic prospects for maintaining favorable trends in science and technology in the United States.

This monograph is exhaustively researched, and the assertions concerning the state of US scientific and engineering health are well supported. The authors break down each broad research question further into more focused questions, which they analyze through available data. The comparisons typically span the last 50 years when data is available. For those who read the report from beginning to end—no small task, given the extensive amount of data presented—the result is a good news story. Galama and Hosek quantitatively support the conclusions that the United States has not declined in science and technology, either with respect to historical standing or in comparison to other contemporary technically oriented nations. They back these assertions by studying the infrastructure, education, and workforce of the United States, which they identify as the build-

ing blocks of S&T leadership. In each case, their objective assessment is that reports of the demise of US scientific and technological leadership are greatly exaggerated.

Galama and Hosek follow up with a level-headed, cautionary note however. They are quick to point out that their research identifies growth trends in many other technological nations. Without sustained levels of US public and private growth and support across S&T leadership factors, the favorable conditions we currently enjoy could evaporate.

I recommend this monograph as a ready reference on the topic of US scientific competitiveness to anyone who wants or needs the in-depth data made exceedingly abundant in addressing each research question. For anyone who routinely relies on or influences the development of a robust US scientific and technological workforce, the final chapter, "Discussion and Recommendations," is a worthwhile read in its own right.

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Deterrence: From Cold War to Long War—Lessons from Six Decades of RAND Research by Austin Long. RAND, 2008, 122 pp., $25.00

This book is a quick walk through the waterfront of RAND research concerning America's development of deterrence theory from the previous 60 years. The theme of the book is that this research, accomplished over this extended period of time, is still relevant today as America faces a new threat, not the bi-polar Soviet Union versus America security scenario faced during the Cold War, but a marble cake of threats, as illustrated by (but limited to) various non-state terrorist actors that America now faces in the Long War. The format of the book is a chronological listing and description of the evolution of various deterrence theories used by the United States during the Cold War. The book is a vast composite of names of the key designers of these deterrence theories and to a lesser degree of description the circumstances that surrounded the development and implementation of those theories. The book is a quick read and is especially useful to introduce the reader to the vast scope of material which is available on this subject (especially through RAND Corporation) and very nicely introduces the reader to essence and substance of deterrence theory.

This book is not a weighty tome, in that it does not fully investigate, dissect, and/or evaluate the effectiveness or worthiness of each of these theories. It becomes incumbent upon the reader to analyze the worth of the theories discussed and determine whether the application of the theories were successful in the larger scheme of world peace and the furthering of America's nation strategic security objectives. This work is worth the time to read as a means to introduce the topic and allow the reader to become familiar with the nuances of deterrence theory and its place within the structure of America's evolving national security strategy

throughout the Cold War. The book then postulates that this litany of published research is still relevant today given the new threat to our security.

The author of this work is Professor Austin G. Long is an Assistant Professor, Sam Nunn School of International Affairs and he is completing his PhD in political science at MIT. Mr. Long is a researcher at RAND. His research is heavily focused on security studies with a specialization in low-intensity conflict, intelligence, civil-military relations, and military organizations and operations. Additionally, Austin Long has written two other works, managing defense transformation and a work on military in counterinsurgency both for RAND Corporation. Therefore, this is an area in which he is well informed and he displays the ability to clearly and concisely write on this topic.

The book's theme is that while the United States had experienced several decades of Cold War deterrence theory and in today's world faces a much different national security threat from that which was experienced during the Cold War. Austin Long postulates that the preponderance of research work accomplished by RAND that has been previously published and studied is still relevant today, even given the different security threat. The point that Austin Long wants to convey to the reader is that "Rather than attempting to reinvent the wheel, the huge body of deterrence research produced by RAND provides an excellent starting point for further study and strategic planning." (Long, page 85) From this observation Long presents the reason why the previously published RAND research is congruent with today's defense strategy development. It becomes necessary for the reader to ascertain whether he/she is also as comfortable with that assessment of the relevancy today of this previous research.

Austin Long writes this synopsis of research accomplished by RAND; however, the value of the book truly eclipses this theme. This book is also useful to the reader as a means to gain a richly documented insight into American security strategies over the course of those six decades. Hence, from the informed reader of strategy formulation to the arm chair historian who searches for additional information on this period of world history, the book is worthy of your time.

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Alliance Management and Maintenance: Restructuring NATO for the 21st Century by John R. Deni. Ashgate Publishing, 2007, 122 pp., $99.95.

John Deni, political advisor to US military forces in Europe and lecturer at Heidelberg University, examines how the realities of establishing NATO's Rapid Deployment Corps (NRDC) furnish insights into the broader theories of alliance management and doctrine development in this compact, if pricey, monograph. Deni provides a fine overview of political science and international relations literature on the topic; a detailed narrative of how, when, and why NATO established its NRDCs; and an insightful analysis of how intra-alliance bargaining resulted in compromises that generated suboptimum outcomes. While this conclusion will

hardly surprise those who have served within the bowels of NATO or historians who have analyzed alliances at war and peace, the strength of this monograph is its detailed, well-developed insider description of the process of transforming NATO concepts into force structures and doctrine.

The monograph consists of eight chapters, with the introduction and following two chapters setting the theoretical framework of the study. Deni notes that much of the literature on alliances focuses on their formation and dissolution, with much less attention to the dynamics of alliance maintenance. By focusing on the intra-alliance negotiations and deal making that sustain existing alliances, *Alliance Management and Maintenance* provides a different theoretical perspective. The heart of the monograph consists of three chapters examining the development of the NRDCs, the alliance's response to changing threats, and the impact of political bargaining. Here Deni is at his best, providing specific examples of how national interests resulted in the designation of six corps as "high readiness forces" (HRF) despite force-structure reviews that called for only three. The penultimate chapter turns to the alliance's response to terrorism, providing a brief 15-page overview of NATO initiatives that seems oddly disconnected from the study's previous chapters on force structure and political bargaining. The conclusion summarizes and emphasizes the study's value at the broader theoretical level, noting that straightforward, threat-based explanations of alliance behavior fail to account for NATO's organizational change in the twenty-first century.

Thoughtful and well researched, this monograph keeps a tight focus on NATO, making no mention of parallel endeavors such as the European Union's Rapid Reaction Force. Yet for most members of NATO, the bargaining and negotiation process that sustains alliances occurs at two levels: both within NATO and within the framework of the EU's European Security and Defence Policy. By focusing solely on the former, this monograph presents an incomplete picture of the multidimensional complexity of European security. Despite this, *Alliance Management and Maintenance* provides insights and analysis that will appeal to both academics and the practitioners of security and statecraft. Academics will find Deni's analysis of various theoretical propositions of alliance behavior useful, though his acronym-laden discussion of NRDCs, HRF(L)s, and the MTIWG (NATO Rapid Deployment Corps, High Readiness Forces, and the Military Transitional Issues Working Group, respectively) may prove daunting to the uninitiated. For those who have worked at NATO or may do so in the future, Deni's account of how bargains are struck and how compromises smooth the way for implementation will be most useful. Combining both a clear theoretical framework and a well-researched examination of the realities of alliance management within NATO, this monograph exemplifies political science at its best.

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The Torture Debate in America edited by Karen J. Greenberg. Cambridge University Press, 2006, 432 pp., $18.99.

Karen J. Greenberg is executive director of the Center on Law and Security at New York University School of Law and co-editor of *The Torture Papers: The Road to Abu Ghraib*, another recently published work on the subject. She also serves as an editor for *Al Qaeda Now* and *the NYU Review of Law and Security*. Introducing this compilation, Greenberg's stated objective is to facilitate open discussion of US torture policy to raise public consciousness. Her altruistic goal is to ensure US policy flows from an experienced population. Rather than casting judgment on current policy with respect to torture, the contributors to this volume report the facts and provide policy options consistent with domestic and international laws and ethics.

With illegal combatant prisoners still at US Naval Base Guantanamo, Cuba, and wars smoldering in Afghanistan and Iraq, Greenberg skillfully tackled the apropos question of whether the United States should allow its military to torture prisoners for information. She gathers experts from different disciplines to discuss the issues associated with torture through a series of essays. Following a short introduction is a transcript of a panel discussion at the NYU School of Law involving several of those who authored articles for the book. A military Judge Advocate General Corps officer with recent experience defending detainees at Guantanamo rounded out the panel.

The authors contrast recent US policy condoning torture with American democratic ideals. While recognizing the need for timely intelligence, they demonstrate how common arguments for torture also serve as arguments against US policy. Most advocates of torture consider it a lesser of two evils when used to save lives. Considering how long the prisoners have been held captive, several authors assert that they no longer have access to the type of intelligence that could justify torture. Even if a case for torture could be made, some argue that any policy allowing it is fundamentally inconsistent with US ideals of human dignity. Some even suggest a policy allowing torture could harm long-term US interests as enemies reciprocate.

Following the question of whether torture is consistent with a democracy, the essayists review international law and conventions that govern torture. They avoid casting judgment and offer options where there appear to be none. The authors consider the ethical arguments against torture, with the last section attempting to glimpse into the future to predict any ramifications for the United States, given the recent conflicts. Although international law forbids torture, it is still an option for the preponderance of nonstate actors that have not signed these conventions.

Throughout, the authors allude to the ease with which current US policy on torture can be abused and the unfortunate circumstance in which the United States feels it must resort to torture. Lacking a background in international law, I appreciate the approach Greenberg took in presenting the national and international legal precedents governing the treatment of detainees. She lists relevant biographical details for each of the contributors up front and added essential source material at the end of the book.

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