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**OBAMA'S FOREIGN POLICY:
IS THIS CHANGE WE CAN BELIEVE IN?**

WITH CONTRIBUTIONS BY

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Chairman's summing-up

François Heisbourg*

After having noted the ambitious, broad-spectrum, and deliberate nature of Barack Obama's foreign policy, the Chairman put to the speakers the general question of the American president's chances of success. In this respect, we were fortunate to have an excellent panel, with Professor David CALLEO (John Hopkins University, Washington), Camille GRAND (Director of the Fondation pour la Recherche Stratégique in Paris), Professor SHEN Dingli (Fudan University, Shanghai) and Ivan SAFRANCHUK (State Institute for International Relations in Moscow).

David Calleo considered that Obama's success was problematic in the plural world which now exists: there will be no restoration of America's pre-Iraq-war position despite the restoration of grace, generosity and modesty. As in his paper, he considered that the EU was a model of organization of regional power, with the Euro playing an increasingly important role, whereas slower US growth would constrain Washington's strategic choices.

Camille Grand noted that Obama's focus on morality (the issue of torture, Guantanamo etc.) went beyond PR: it gave the new administration a major comparative advantage in coping with three substantial challenges discussed in his paper: walking the tightrope of issues concerning the Muslim world (with Netanyahu's policies as a first test); reinventing multilateralism (with CTBT ratification and post-Kyoto as the tests) and the need to operationalise the new nuclear order. When asked by the Chairman why there had been no honeymoon with Europe, he noted that there had been no clear point of application for a honeymoon: not the economic crisis, not the issue of Turkey's membership of the EU, not strategy vis-à-vis "AFPAK".

Shen Dingli considered that it was too early to comment on Obama's chances of success. However, he was pessimistic not only about the possibility of pulling North Korea back from its nuclear programme or of

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stopping Iran from enriching uranium but also about prospects for withdrawal from Iraq, let alone Afghanistan, or about the possibility of pacifying Pakistan. In terms of US-China relations, he expressed the hope that Obama would pick up from the Bush jr. legacy:

In this regard, there was positive language on the financial front, with the US Treasury no longer accusing China of manipulating the exchange rate of the RMB. Conversely, in view of recent naval incidents, the US had not acknowledged China's regional efforts for peaceful resolution of issues concerning the South China Sea. To a question from the Chairman about the prospects of "Chimerica", Professor Shen took the view that there is no "G-2", that the US is n°1. The US and China should certainly work together on post-Kyoto in Copenhagen: but China is "bearing the burden" of carbon emissions produced on its territory in order to satisfy foreign demand for Chinese exports (in subsequent debate, the retort was made that such a line of reasoning could serve to justify protectionist measures against Chinese exports on environmental grounds).

For Ivan Safranchuk, Obama was locked in a 'bound to lead' mode, arriving with pre-cooked solutions without having brought in the regional players; he noted the weight of the BRICs and China's greater assertiveness. As in his paper, he underscored the fact that contemporary security risks tend to be local or regional in terms of their origin and dynamic rather than global. He did not share Professor Shen's admiration of the Bush jr. administration. On the financial front, he took the view that the value of the \$ was entirely dependent on US fiscal policy: this never ceased to pose a problem for energy-exporting countries.

As a result the presentations of the paper-givers, the Chairman laid out several items for further consideration:

- the notion of a 'plural world'
- the absence of a honeymoon: it still takes two to tango
- the pessimism of all four concerning Obama's chances of success (success according to the US administration's own terms)
- the particular difficulty of integrating the management of short-terms crisis (including the recession) and long-term challenges (climate-change)
- the role of the BRICs, individually or collectively

In the debate from the floor, an American analyst made three observations:

- according to Mark Leonard, only some 10% of the projected \$1.2 trillion US budget deficit is attributable to decisions made since Obama's inauguration (37% flow from the mechanical effect of the recession and 53% from Bush-era policies);
- in his Cairo speech, Obama acknowledged that the US can no longer attempt to impose its narrative (e.g. the absence of the word 'terrorism')
- on moral issues, and notably on the use of torture, American society remains divided.

An EU representative noted that it wasn't popular to openly criticize Obama: in politics, that counts. He also asserted that Obama was pragmatic rather than visionary.

A US official expanded on this, stating that when you want to sell an idea, you wrap it around a person. Conversely, he took exception to the notion that the new administration was going in with fixed ideas.

A Commission official underlined in turn, that nothing negative had been said at this meeting about Obama's intentions: that, in itself is a novelty. He wondered whether doubt wouldn't come first from the domestic constituency (note: at the time of the meeting, the health care debate had not yet picked up).

With a return to the panel, I. Safranchuk maintained that there was a good deal of "fixed ideas" involved, notably at the level of the special envoys: Richard Holbrooke is not in the fact-finding business...Because regional players, including Russia, are feeling the corresponding pressure, they are looking around for a broader set of choices.

Shen Dingli for his part insisted on the visionary side of Obama: the Christian and American legacy of the shining city on the hill, US exceptionalism in a global setting, indeed anti-communism, as demonstrated in the sentence which was cut from China's airing of Obama's inaugural address.

In image terms, the new President is successful. But international cooperation can make the difference between success and failure of policy. He asserted that a US statement declaring that the Iraq war was illegal along with readiness to compensate the victims would be helpful.

Camille Grand restated that it takes two to tango, noting that some of America's best friends under Bush jr., such as Israel and India, had problems with Obama's vision, while some of America's opponents -North

Korea, Venezuela-are not necessarily changing their policies. Relations with Iran are in a state of suspense. Strategies still need to be defined. Nonetheless, Obama had demonstrated that he wasn't a rookie in international affairs, and he had not been afraid to assemble a brilliant foreign policy team.

David Calleo, on a similar note, considered that Obama is probably the best diplomat the US has produced in a long time, with exceptional instincts and good thinking about the world.

To a parting question from Michael Emerson concerning the nature of US policy in a potentially semi-anarchic pluralist world, the panellists were invited to respond in a nutshell:

- We don't know what Obama's take on multilateralism is (C. Grand)
- The US doesn't quarrel with China any more about the RMB (Shen)
- we live in an age of regionalism (I. Safranchuk)
- balances of power work between friendly powers, along the lines of domestic balances of power in a democracy (D. Calleo).

An American Perspective

David Calleo*

For several months following the election of November, 2008, most Americans took great pleasure in their charismatic new president. A series of soaring speeches, frank interviews and pragmatic initiatives made real changes for the better seem possible. Of course, other presidents have begun with high hopes, only to be ensnared in multiple dilemmas inherited from their predecessors. By the summer of 2009, Obama's own prospects begin to seem more problematic. Disagreements have surfaced between the Presidency and the Congress and rumours proliferate about splits within the administration's own ranks. Fear grows that the president – attempting simultaneously to overcome a severe financial crisis, address long-neglected needs of the domestic economy and win two intractable wars – has overreached himself.

Assessing the long-term prospects for Obama's foreign policy requires determining what its particular elements and priorities actually are. To what extent is there a coherent vision as opposed to a series of ad hoc responses to inherited situations? So far, the administration's overriding concern has been the world economic crisis. Foreign policy in general has been dominated by economic policy in particular. Our most significant diplomacy has been concerned with persuading other major countries to adopt financial remedies compatible with our own.

But today's economic diplomacy also raises broader geopolitical issues about the future character of world order. As the financial and economic crisis unfolds, geopolitical concerns increasingly dominate the economic policies of the world's major powers. The US can hardly ignore the impact of today's financial and economic crisis on America's international role. So far, the crisis probably favours a 'declinist' view of American global hegemony. In marked contrast to the American geopolitical vision of a decade or two ago, today's dispensation of power is increasingly seen as plural rather than unipolar. Such a view suggests a

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fresh dispensation of respective roles for the US, the European states, Russia and China. To what extent is the Obama administration influenced by this pluralist view? Has it generated what might be called a corresponding geopolitical vision of America's place in the world? Is the administration actually guided by such a vision? How inclined is the rest of the world to accept it? Can Americans themselves believe in it? Finally, to what extent are these broad questions being determined by the interaction of differing financial policies among the major players? In short, what is the likely impact of today's financial and economic crisis on America's traditional leading international role? To what extent does Obama's foreign policy anticipate that impact?

Political-economic linkages are never simple and no doubt it is too early to tell how present policies will unfold. But one linkage that seems relatively direct and decisive is the future place of the dollar in international monetary arrangements. For more than a half century, the dollar's role as the world's principal reserve currency has given the US an unmatched capacity to create credit for itself; money that the rest of the world has been willing to accept. That capacity has been a critical element in America's leading global position. It has, however, been contested periodically and now appears seriously threatened.

Elaborating the current threat calls for a closer look at Obama's own financial policies. These come in three broad categories: the first is the continuation and elaboration of the Bush administration's response to the financial crisis. It involves creating several trillion dollars in actual or potential credit to compensate the banking and insurance industries for the collapse of their 'toxic' assets. This financial 'rescue package' is now being extended to America's stricken automobile industry. Although the government is trying to avoid formal nationalisations, inevitably it is taking a more and more dominant regulatory role in the afflicted industries. Obama's second category of financial policies reflects the social priorities encapsulated in his proposed fiscal budget. It anticipates, for example, a major overhaul of the scandalously inadequate but costly healthcare system. It also provides for augmented spending on the country's long-neglected infrastructure, along with subsidies for research, education and new technologies. The third broad category has to do with the costs of America's geopolitical exposure in general and the wars in Afghanistan and Iraq in particular. Obama hopes to withdraw from Iraq without defeat and emerge triumphant from Afghanistan. An unprecedented fiscal deficit

- well over a trillion dollars for next year alone - is the obvious result of these combined Obama policies.

Given the country's current fear of deflation and general aversion to taxes, financing these outlays implies a massive monetary expansion. The balance sheet of the Federal Reserve, a good indicator of monetary stimulus, has already expanded from \$900 billion in September 2008 to over \$2.1 trillion as of May 2009. The neo-Keynesian view of the Great Depression of the 1930s provides a popular apology for today's expansive policies. Recovery in the 1930s was delayed, according to that view, because President Roosevelt failed to keep running adequate fiscal deficits. Not until World War II, it is said, was government spending sufficient to shock the economy out of its paralysis. Historians of our era are unlikely to fault the Bush and Obama administrations for comparative timidity.

Obama's policies point towards a different complaint. Creating money on such a scale naturally feeds fears of enormous inflation to follow. It brings into question the credit-worthiness of the Treasury and the Federal Reserve themselves. A sharp rise in long-term interest rates for government bonds would be a normal reaction; it now appears to be underway. Servicing debts will thus threaten to take an ever-larger share of future budgets, particularly as demographic trends point towards still heavier pension and medical costs. The temptation for future governments to inflate away their debt will, some fear, prove irresistible.

To be sure, others discount this fear. Much of the new credit is being used to replace assets that have abruptly lost their value. If such assets begin to recover, nothing prevents the government from compensating by withdrawing its new credit from the banking system. Faith in such monetary 'fine tuning' is, however, no longer as fashionable as it once was. Experience suggests that future governments may find it difficult to impose the short-term sacrifices that avoiding inflation would seem to require. Most post-war American administrations, at least after Eisenhower's presidency, have tended to favour growth over stability, with a bias towards monetary ease that encourages periodic bubbles and crashes.

Wage and price inflation in the US have, however, been relatively restrained since the 1980's. In the 1990s, it was popular to attribute the apparently low inflation to remarkable productivity gains, or to trade liberalisation. Arguably, opening the American market to low-cost competitors, like Mexico or China, made it difficult for American producers to raise prices or wages. But as traditional wage and price inflation waned it was replaced by 'asset inflation'. Hence the bloated values for shares and

real estate that prepared the current banking crisis. The collapse of these inflated assets now makes us fear deflation – a depression. But behind today's deflation lies the long-standing inflation that prepared the way for it. Fear of a return to inflation rests on the unprecedented creation of money, which is going on as we speak.

What does all this have to do with foreign policy? The fate of the dollar is inextricably linked to the issue of inflation. Obama's explosion of credit is not starting from scratch. Foreigners already hold a huge overhang of dollars. Given our still large current-account deficit, the dollar's exchange rate depends on the willingness of foreigners not only to hang on to the dollars they already possess, but to continue accumulating very large new holdings. Since World War II we have grown accustomed to having foreigners accept our dollars. The principal holders were, of course, countries we were protecting from the Soviet Union. Germany and Japan, in particular, were our military protectorates. For them, holding our dollars could be seen as a form of geopolitical burden-sharing – a reasonable bargain, awkward to refuse. With the demise of the Soviet Union, however, the dollar's compelling geopolitical support is largely gone. Moreover, throughout the Cold War there was really no other international currency to replace the dollar. With the euro, there now is an alternative currency. Without the Soviets and with the euro our dollar is in a different world.

No doubt it will take time for new realities to work themselves out. Increasingly prominent among today's dollar holders are the Japanese and Chinese. While the rich Japanese may still be content to invest heavily in the sinking dollar – to preserve their exports and their alliance – it is difficult to imagine the Chinese continuing indefinitely in the same posture. Indeed, the Chinese seem already engaged in a massive shift of priority to their own domestic development – an obviously rational reorientation, even if it cannot be accomplished without confronting numerous difficulties. At the same time the Chinese have been making trade deals with Brazil and Argentina that ostentatiously avoid using the dollar. However, given that China's renminbi is not fully convertible, its imminent use as a major reserve currency seems improbable. But the same is not true for the euro, which is already the currency for roughly 25% of the world's reserves and the vehicle currency for what is the world's largest trading bloc.

There is little evidence, however, that the European Central Bank is eager to supplant the dollar. The ECB is, none the less, traditionally more averse to inflation than the Federal Reserve. While it has not hesitated to

pour immense credits into the European banking system during the recent crisis, its monetary policy has been relatively restrained over the years. As a result, the euro has appreciated significantly over the past decade and many European exporters complain of an 'overvalued' euro in relation to the dollar. This seems particularly serious for those firms that still export heavily to the US, or compete heavily with American firms elsewhere. Subsidies and protection, of one sort or another, seem likely European reactions. A weak and unstable dollar should encourage the EU to reach long-term deals with Russia and neighbours generally. It should also encourage the Chinese in their already extensive campaign to build a regional Asian bloc. In short, a weak and unstable dollar probably points towards a world economy where economic relations are more politically determined, along regional lines. Such trends may significantly constrain America's pretensions to global hegemony. The prospects for interstate conflict are ample in such a climate. It will be important to have international institutions that encourage reasonable bargaining and emphasise the search for shared interests. Perhaps Europe's Common Market will prove the most appropriate model for organising regional systems and their global relations.

Reflecting on the current situation suggests, I believe, a number of possible conclusions about the future of American foreign policy. The first is that the Obama presidency is likely to disappoint those who hoped to see a restoration of America's traditional post-war position. Obama is reviving the modesty, grace, and generosity that has characterised American diplomacy at its best. But he is unlikely to restore the substance of American hegemony. Indeed, the notion of an American 'restoration' or 'recovery' is itself dubious in present circumstances. The United States will probably not 'recover' its previous prosperity and position. America's outsized consumption may well decline, no longer subsidised by the rest of the world's support for the dollar. In retrospect the current economic crisis may come to be seen as a decisive mutation in the post-war system - signalling the unsustainability of unipolar policies and the consequent breakup of American hegemony in the capitalist world; a development that in certain respects parallels the collapse of the Soviet Union, followed by the disintegration of its own version of a 'global' system. As a result, America will be a somewhat poorer country, but should also grow more competitive. If the economic crisis spells the end of unlimited credit, an overdue geopolitical retrenchment should follow. With luck, the Obama administration's policies will strengthen the country internally, after

several decades of neglect. Perhaps we will succeed in avoiding the ruin that often afflicts would-be hegemonic powers forced into retreat. We may not have to share the recent fate of the Russians. Shorn of outsized pretensions, the US may expect to remain the world's leading power for the foreseeable future. In short, Obama might manage a retreat from the hyperactive, unipolar foreign policy of the Bush administration into a new American role more appropriate to the plural world order that is forming. This could be the moment for reducing post-war America's outsized claims on the rest of the world, while trying to coax the world's other great powers into a cooperative new governing structure. A stronger America should be able to appease as well as confront. Should we believe this can happen?

It is possible to see signs that Obama is moving in this direction. His early approaches towards China, Russia, the Muslim world, and indeed Europe, have been sensitive and conciliatory. He has done much to restore the image of a more confident, reasonable and modest America – a country characterised more by generous partnership than manipulative leadership. Such moments of radical geopolitical change are, however, seldom easy to navigate. For a beleaguered government, war can present itself as an easier solution than accommodation. The administration is already fighting two wars. The President has gone out of his way to commit himself to success in Afghanistan and Pakistan – unpromising projects. No one should expect him to be rescued by a quick return to economic prosperity.

Perhaps the wisest observation to derive from the present situation is that the United States no longer has the means to always take the lead in managing the world's problems. Obama will need to persuade his own government to reduce its pretensions accordingly. Perhaps his greatest challenge will be to convince the world's other great powers to rise to their own responsibilities. If he fails on either count, the beginning of the 21st century may come more and more to resemble the beginning of the 20th.

A European Perspective

Camille Grand*

The election of Barack Obama has generated hopes that go beyond the traditional expectations of a new US administration.

Going further than a fairly routine party change from Republicans to Democrats, the election of Barack Obama was a unique combination of a generational and a radical style change. For the first time, not only an African-American but an individual with significant non-European foreign roots was to lead the world's largest power. After eight years of a Bush administration that had engendered unprecedented distrust vis-à-vis US policy and leadership, the new president appeared to be a clean break with the past. This is all the more true since the new president does benefit, at least until the mid-term elections, from a clear democratic majority in Congress, which should facilitate his intended shifts in the US foreign policy agenda.

This election not only symbolised a new era but demonstrated the vitality of the US democracy, when many commentators were announcing the end of American leadership in the context of the financial crisis. Even though the Obama campaign was launched on a foreign and security policy issue (namely the withdrawal from Iraq), it is important to underline that it was won on the issue of the financial crisis, the depth of which Obama understood earlier than his Republican opponent.

Before going into the foreign policy challenges the new administration faces, it is important to remember that the economic crisis is likely to be the benchmark for the American electorate in the next elections, and that, short of a major national security event of the magnitude of 9/11, foreign issues will play a minor role from a domestic perspective in the run up to the mid-term elections and the next presidential election.

As far as the foreign and security policy agenda is concerned, Obama is facing a series of major more or less interconnected international challenges that will put his vision of international affairs to the test in the

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coming months. His ability to meet these challenges will determine if the proposed substantial changes will be implemented successfully. As he distanced himself significantly from the Bush era, each of his strategic choices appears as a test of his foreign policy.

Restoring US Leadership

Beyond public relations: the issue of moral leadership

If the rest of the world had voted for the US election, Barack Obama would have been elected easily. Extremely popular throughout the world from the onset, this was in stark contrast to the hostility that G.W. Bush faced abroad. The enthusiasm following Obama's election was global.

From that perspective, President Obama benefits from a clear advantage in restoring the tarnished image of the US. He took immediate decisions that embodied a foreign policy shift from the Bush era, the most symbolic being the announcement of the closure of the Guantanamo.

Announced within the first few days of the presidency, this decision was not only a campaign commitment but was also meant to symbolise a clear break with the Bush era. The use of the term 'torture' to characterise certain interrogation techniques authorised by the Bush administration was another major shift and certainly a difficult political choice that raised hackles in the intelligence community.

These decisions go much further than mere 'PR' exercises but demonstrate President Obama's desire to regain the moral high ground as a central figure of US leadership. This moral leadership has been an important feature of US foreign policy for more than two centuries; clearly the cynicism, lies and mistakes of the Bush administration severely undermined that considerable comparative advantage.

Engaging the Muslim world

The Cairo speech of June 2008 intended to create a "new beginning between the United States and Muslims around the world, one based on mutual interest and mutual respect, and one based upon the truth that America and Islam are not exclusive and need not be in competition". It appears as a defining moment in Obama's effort to reengage the Muslim world; it both pays tribute to the Islamic heritage and is respectful of Islam, distancing the US from Israeli positions such as those on the implementation of new settlements.

This unprecedented move intends to recreate the conditions that would allow the US to push the peace process forward by reengaging the moderate Muslim countries and sending out the right signals to the Muslims themselves.

For years the Bush administration appeared to align itself with Israeli positions; Obama's choice is an ambitious but risky strategy. He is walking a tightrope without the assurance that he will be able to move Israel and Arab countries significantly closer to a compromise. The current hard-line government in Jerusalem is not facilitating the implementation of this strategy and he may already have reached the limits of his ability to exert pressure on Israel.

First Challenge: Containing the terrorist risk while shifting strategic priorities

The absence of any significant attack on US soil since 9/11 is claimed as a major success by the Bush administration. As former vice-president Cheney immediately underlined in his counterattacks following the closure of Guantanamo, the peril of the Obama moral stance is associated with the risk of failure in the fight against terrorism. Any major event thus runs the risk of weakening the strength of the logic behind the change in counterterrorist policies. The strong reluctance that appeared amongst congressmen and local communities when the issue of the transfer of Guantanamo prisoners to US soil was a first indication of these dilemmas.

The end of the global war on terror

While the Bush administration put the Global War on Terror (GWOT) at the heart of its international stance, Obama no longer uses this concept and insists on not grouping a variety of different issues and regions (radical Islamic terrorist, Afghanistan/Pakistan, India/Pakistan, Iraq, Israel/Palestine, Lebanon, Somalia, South-East Asia...). The end of the GWOT is primarily the recognition that Iraq, Afghanistan etc. are different issues and that there is no such thing as a 'global' war on terror. This shift also coincides with the transformation of al-Qaeda into a loose network; more of a 'trademark' than a structured organisation.

From Iraq to Afghanistan/Pakistan

The main consequence of the end of the GWOT is the strategic shift from Iraq to Afghanistan.

Placing emphasis on Afghanistan was the first strategic decision to be made by President Obama, and it goes beyond a clear military priority and additional troops. This choice is also the wise recognition that the frontline in the war on terror is in fact in Afghanistan and Pakistan; it is therefore a major shift from the Bush administration's six year prioritisation of Iraq.

As the security situation has worsened significantly in Afghanistan, it is a hard choice however, as no clear victory over the Taliban is in sight. Moreover the fighting in Pakistan shows that the Taliban movement remains strong in both Afghanistan and Pakistan.

One of the difficulties Obama is already facing is the lack of strong support from his NATO allies, which have not committed more troops or money to Afghanistan, in spite of strong American calls in the run-up to the Strasbourg-Kehl NATO summit. The lack of clear support in Afghanistan for President Karzai is a second major issue putting Obama's Afghan strategy at risk.

Second Challenge: Reinventing multilateralism

Reinventing a cooperative and multilateral diplomacy for the US

On key feature of the Bush era was unilateralism. On this point again, Obama's foreign policy intends to establish a clear break with the past. In the United Nations, in the G8 or G20, in NATO, in the Organization of American States, the signal is clear, the United States intends to reengage the multilateral framework and use these tools not only – once again – as an image change but also as part of a broader vision of foreign policy that starts from the simple premise that the United States needs the rest of the world to address the new economic and strategic challenges ahead, from the economic crisis to climate change, proliferation or terrorism.

This policy does not mean, however, that Obama's US has renounced its leadership; it simply intends to exercise it through new cooperative means. It implies a policy of engagement, including with hostile countries (Venezuela, Iran...) in an effort to gain diplomatic support for US policies and proposals. In that sense, it is a more modest foreign policy.

The issue will be whether this multilateral approach passes both the domestic test (will Congress support the Kyoto Protocol or the Comprehensive Test Ban Treaty?) and the international test (will the US be able to lead by example and gather support to achieve its foreign policy

objectives?). A failure to pass these tests might generate a unilateralist backlash.

Revive the transatlantic partnership

The London G20 meeting, the Strasbourg-Kehl NATO summit and the Prague EU/US meeting in March were the first international events of the Obama presidency. They offered the president an opportunity to frame his views about a renewed transatlantic partnership. He strongly recommitted the United States to this partnership.

Following the trends of the last months of the Bush administration but taking them further, the new president decided to push forward a vision for a renewed transatlantic partnership built upon a closer and more formal EU-US relationship and a reformed NATO for the 21st century. Coming from a president with no European background, this appeared to be a recommitment to European affairs.

Obama enjoys unprecedented support amongst Europeans. He nevertheless needs to 'operationalise' these views, both within the EU/US framework and within NATO with the upcoming debate on the Alliance's strategic concept. This process will be crucial as the Alliance has been facing a solidarity crisis since the Georgian crisis of August 2008.

Third Challenge: Rethinking the Global Nuclear Order

A Vision for nuclear disarmament and non-proliferation in the 21st century

In his Prague speech, President Obama stated his objective of a "world free of nuclear weapons". This was more the expression of a vision than a strategy per se.

Reading the Prague speech, (before the release of the more detailed Nuclear Posture Review next winter), Obama's nuclear policy can be described as following three different paths with very different calendars:

- He expresses the vision of a world free of nuclear weapons and sees the long-term objective of nuclear abolition as a moral objective;
- the President qualifies that objective in the same speech, however, by stating that it will not happen in his lifetime. He therefore agrees to work on interim and short-term objectives aimed at reducing nuclear threats;

- He also insists that it is his duty to preserve a safe, secure and reliable US nuclear arsenal, signalling that it is not his intention to undermine the credibility of the US nuclear position.

In practical terms, the implications for nuclear diplomacy are significant.

When the Bush administration was heavily criticised for having put an end to multilateral, legally binding, and verified nuclear arms control, the new administration appears ready to make the case for the Comprehensive Test Ban Treaty (CTBT) in Congress, to launch the Fissile Material Cut-Off Treaty (FMCT) negotiation in Geneva and to resume discussions with Russia on a follow-up to START that could have both verification provision and lead to significant cuts reducing the operational stockpile to less than 1500 warheads. An effort has also been announced to reduce the risks of nuclear terrorism.

Once again, this rather ambitious agenda is likely to face significant difficulties both domestically and internationally.

Given the loss of arms control expertise and interest in Congress, will the President be willing and able to spend political credit to get several treaties ratified in the next couple of years? What is the nature of the bargain with the nuclear labs on the CTBT, and how does this process interact with decisions about the Reliable Replacement Warhead (RRW) debate? Will the US be able to demonstrate leadership in the FMCT negotiation in Geneva?

Internationally, will Russia agree to engage in a process leading towards deeper cuts without an agreement on missile defence and NATO expansion? Will China, France and the United Kingdom agree to take their share of the Obama vision? Can China in particular agree to halt the upgrade of its nuclear forces and display more transparency, to allow deep US and Russian cuts when many analysts assume that the Chinese nuclear arsenal is not only in the modernisation process but also expanding? Will the US promise to work towards a nuclear weapon free world suffice to restore consensus in the non-proliferation regime as the 2010 Non-Proliferation Treaty (NPT) Conference approaches? Will bilateral disarmament and a fissile material cut-off be viewed as enough by advocates of nuclear elimination? How will the disarmament agenda connect with other issues such as missile defence? Will US allies in East Asia, the Gulf and Europe easily allow a process sometimes perceived as

weakening the US extended deterrence at a time proliferation when concerns are rising?

All these open questions test the ability of President Obama to fulfil the vision enshrined in his Prague speech and thus engender a high level of uncertainty.

Addressing the Iranian and North-Korean non-proliferation crisis

The most dramatic and immediate challenge to the security order Obama intends to build comes from two emerging nuclear countries: Iran and the DPRK.

North Korea welcomed President Obama with a long-range ballistic missile/space launcher test in April, followed by a nuclear test in May. The six-party talks seem to be in stalemate and any decision by the Obama administration to engage the DPRK will be perceived as a sign of weakness. No clear alternative is available, however.

Iran itself is actively pursuing its nuclear programme and has so far not given any sign of openness in response to the gestures made by the new US administration. US engagement is crucial to resolving the Iranian nuclear conundrum and the lack of unequivocal US commitment to a compromise was instrumental in the failure of the 'EU 3 + 3' process. This is nevertheless a trap for the new administration as the Iranians have so far shown no willingness to compromise and stop enrichment activities. Iran would appear to be an interesting test case for Obama's foreign policy. Will the policy of engaging everyone and in particular those countries hostile to the US be more successful than the confrontational approach preferred by the previous administration? Is a successful outcome achievable within the short time available before the roll back of the Iranian programme becomes impossible?

In both cases, the new administration runs a severe risk of failure and could end up being characterised as both dovish and idealistic.

Conclusion: When the Obama vision confronts the real world

Barack Obama made the strategic choice of distancing himself clearly and unequivocally from his predecessor on the international scene. It is not only an issue of public diplomacy and good PR; change has happened and the president has been extremely successful in transforming, in less than six months, the image of the US in the world. This has given him more

leverage than G.W. Bush to address some of the toughest challenges ahead of him.

The difficulty is that 'it takes two to tango'. The policy of negotiation and engagement will succeed if and only if strategic partners such as Russia and regional players such as Iran agree to engage and participate in this radical change in security relations.

On many of the challenges described above, the Obama administration seems to have a clear vision - a roadmap for implementation, but it runs the risk of failure. This very ambitious agenda and Obama's ability to truly implement change is therefore dependent on his capacity to turn his political credit and his policy of engagement into concrete steps to achieve his objective. He has the talent and the team to succeed, but the challenges ahead should not be underestimated.

In a nutshell, the task ahead is to convince the rest of the world, including the most hostile countries, to share his vision of international affairs in order to turn it into a new foreign policy. In other words, to pass the reality check.

A Russian Perspective

Ivan Safranchuk*

Obama's new administration raised many hopes around the world and Moscow has also been receiving positive signals. President Obama is clearly committed to redressing the imbalances left by the Bush administration.

Russian-US relations have gone through several phases in the past two decades. In the early 1990s, Moscow trusted Washington and sought to establish the friendliest possible relations with the US. However, influential Russian political circles and society at large soon came to think that the United States was betraying Russia's new confidence. In the second half of the 1990s, differences between the two countries increased, culminating in the spring of 1999 when NATO launched a military operation against Yugoslavia.

From the very beginning of his presidency, Vladimir Putin has sought rapprochement with Western countries. Real results came in 2001, after the terrorist attacks in New York City and Washington. However, the period of Russia and the US being united by a common enemy proved to be short-lived. Mutual mistrust and real tactical and strategic disagreements centred on a new conflict – the war in Iraq in 2003. This time, Moscow was not alone; it stood united with Paris and Berlin.

Both parties needed a formula for their relations that would give them room for differences, but which would keep these differences under control. And such a formula did materialise – in the form of an 'agreement to disagree'. Moscow and Washington informed each other about their differences and put them on record, but refrained from confrontation. This formula helped each of the two countries manage their differences.

Russia and the United States had a common interest – neither wanted to be on different sides of the barricade in a global conflict. Cooperation might succeed or it might not, but what mattered most was avoiding

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confrontation. The 'agree to disagree' formula met this interest. Soon, however, further details became clear.

Moscow quickly discovered that being heard did not necessarily mean being heeded. The West listened attentively to Russia, but used its right to 'disagree'. Thus, nothing really changed in practice. There was a political coup in Georgia in 2003. Russia did not mind at all if Eduard Shevardnadze was replaced, but it expected that a new presidential candidate be agreed upon jointly with Tbilisi. In 2004, Moscow and Washington once again found themselves in opposite camps in the political struggle in Ukraine.

Russia saw its interests attacked in Eastern Europe and in the Caucasus, and reacted by putting pressure on US interests in Central Asia. In 2005, the United States had to withdraw its military base from Uzbekistan, while another US base - in Kyrgyzstan - has been under constant pressure ever since.

The United States was also dissatisfied with the deal. It had thought that Russia would not go any further than expressing its discontent with US policies and would not play a game of its own against US interests. Washington was therefore surprised when Moscow did not let it 'crush' Iran and when it did not back US policy in Lebanon, instead supporting Syria, politically at the UN Security Council and militarily by supplying it with air defence systems. Russia also supported Venezuela and started putting all-out pressure on pro-American regimes in Eastern Europe and then in the Caucasus. Moscow did not intend to give in whenever the United States declared its interests.

Russia's conduct ran counter to Washington's interpretation of the 'agree to disagree' formula. In 2006 and 2007, the US adjusted it and transformed it into 'disagree but do not oppose'. Such a formula could be interesting for Russia if the parties divided the world into zones of influence and responsibility. Then they could disagree about each other's actions inside these zones, but would not interfere in the affairs of the other party's zone. However, Washington did not want to divide the world into such zones. And now Moscow is not very eager to do that either, as it can play a game of its own on a large scale and there is no longer the need for it to artificially narrow the playing field.

However, without separate zones of influence/responsibility, the US 'disagree but do not oppose' formula made no sense. The United States also

found it unattractive when it began to be rebuffed and asked not to interfere in Russian policies.

The 'agree to disagree' formula became outdated and outlived its usefulness by the end of 2006. Its potential was simply exhausted, but no new solutions have yet been found. Many disagreements have piled up over the past five years. By the end of his presidency, Vladimir Putin could no longer hush them up – hence his famous 'Munich speech'. Still, neither Moscow nor Washington wanted an open confrontation.

All attempts to invent a 'joint agenda' for the two countries nevertheless failed. To paraphrase a well-known saying, it was: "Nothing personal, just no business". Putin and Bush had no 'personal' problems. But Russia and the United States had no joint business either. Their statements on the joint struggle against terrorism, the proliferation of weapons of mass destruction, etc., never materialised into any joint business.

The geopolitical and geostrategic interests of Moscow and Washington have been diverging rapidly. The two countries now have incompatible interests in the energy sector, as well as in certain geographical areas. Soon they may use the phrase 'nothing personal, just business', only each party will have a business of its own, and their businesses will compete with each other.

The parties missed a real opportunity to harmonise their interests and achieve strategic solutions on partnership and joint actions in 2004-05, during the second wave of leadership replacement in the countries of the former Soviet Union. Russia and the US started games of their own, placing them on different sides of the barricades in Ukraine and Georgia, and somewhat earlier in Moldova, which was torn apart by territorial conflict. The parties are now unable to give up their positions and will play out their games to the end, which may well take a long time.

These years also saw fundamental differences between the two countries in their Middle Eastern policies (Iran, Syria, Lebanon, and the Palestinian issue) and the beginning of their rivalry in the energy sector. Moscow began to work out its own conceptual approaches to energy security issues, which were at variance with those of the US. Since then, Russia and the US have been acting strictly in their own interests.

Russia feels that it is strong enough to play a game of its own. The United States fears that Russia is not reformed and responsible enough, and this is why it wants to keep an eye on it and restrict it wherever

possible. On the other hand, Washington does not want to annoy Moscow and prefers soft forms of control, such as joint actions, cooperation, etc.

A paradoxical situation has thus arisen. Russia wants to cooperate with the US (especially on various security matters) – but on a pronouncedly equal footing. Such cooperation would emphasise the new quality of Moscow and its foreign policy. However, in response to its willingness to cooperate, Russia sees US attempts to organise interaction as a means of actually containing, blocking and restricting it.

Russia needs forms of cooperation that would emphasise its independence and significance – that is, forms of cooperation, rather than Russia's assistance with some US affairs. For its part, the United States needs interaction that would not leave Russia on the sidelines and, at the same time, would not give it the power of veto.

The Georgian crisis of 2008 put an end to the protracted period of uncertainty in Russia-US relations, which had lasted for approximately three years. President Vladimir Putin made a decisive breakthrough towards Russia's integration into the global economy and politics. The view prevailed in Russia then that the country could adapt to the new global rules without harming its national interests and even that it could implement them more fully. The US position after September 11, 2001 gave grounds to believe that Russia's position could be explained to Washington and that the latter could accept it on certain terms. In other words, Russia believed that it could reach an understanding with the US.

However, practical moves to reach this understanding invariably failed after 2003. Yet it seemed that the parties could at least not play against each other openly. Events in Ukraine in 2004 and in the Middle East after 2005 left no hope for that. In the past three years, Russian and US interests have clashed constantly. The United States wondered why Russia would not give in, while Moscow became increasingly annoyed at the very idea that it should give in.

Relations between Russia and the United States are now taking on a new quality. They are not yet confrontational (at least, not in the cold war sense), but they are not in partnership either – the parties have failed to find cooperation formats that would suit them both, and now their interests are diverging as well. Moscow and Washington can cooperate on certain individual issues, but strategically they are now on their own.

For the rest of the world, the transformation of Russian-US relations was largely unexpected. Europe stands to gain most from it – if, of course,

it dares one day to do something independently and use some of the opportunities given to it by the modern world. The lack of systemic confrontation between Russia and the United States leaves Europe free to not make a decisive choice between the two powers. The Old World can behave flexibly, in some cases supporting Russia, while in others supporting the United States. For Europe, this is a chance to finally begin to act in accordance with its own interests.

For China, it is somewhat surprising that Russia and the United States have found themselves in this situation. But China will hardly be displeased by such a state of affairs in the short term. Rather, Beijing will not believe it for some time; interpreting the development of Russian-US relations as a move towards confrontation (which has not yet been completely ruled out, but is not predetermined either – at least, it will not be a deliberate choice on the part of Moscow or Washington). As a result, China will probably continue to act in accordance with the old logic of Henry Kissinger – that is, the logic of a ‘strategic triangle’ among Russia, China and the US, where rapprochement between any two parties will necessarily make the third one lose. However, the new quality of Russian-US relations rules out the ‘strategic triangle’ logic.

The other two countries of the so-called BRIC – Brazil and India – will benefit somewhat from the new quality of Russian-US relations. As they do not need confrontation with America, or to make excessive concessions to it, Moscow’s new position will give them further opportunities to uphold their interests. In general, the advancement by Russia of the BRIC format in recent years, where the parties discuss the agendas of the UN Security Council and the G8, apparently reflects this transition by Moscow to fundamentally new foreign policy positions.

On the whole, the new quality of Russian-US relations is another essential element of the multipolar nature of the world. A confrontational model stems from the bipolar past. Partnerships and alliances are elements of either ‘friendly bipolarity’, which never materialised, or of a unipolar world under US leadership, which also failed to deliver.

A Chinese Perspective

Shen Dingli*

A superpower under transformation

As the sole superpower in the world, the United States is experiencing an important era of transformation.

Economically, the US is an unmatched and unrivalled power in the world, with its economy three times bigger than the second and third biggest economies in the world, Japan and China, and with a per capita income 20% greater than Japan's and 13 times greater than that of China. There are a few countries in the world that boast an even bigger per capita economic output than that of the US, but their populations are far smaller than the colossal US population.

Militarily, the US now spends 47% of the world's total defence budget. The US is the only country in the world that has various regional commands beyond its territory, even including a command of celestial space. It seems that America is the only country that can wage a war in any part of the world at short notice - the war on Iraq in 2003 being such an example.

While America is currently at its peak, the country is also facing serious challenges, however.

Politically, the US democracy did not function well enough to forestall Bush's war on Iraq. In fact, at a time of crisis such as the 9/11 terrorist attack, the US democracy failed to work adequately to assure the defence of the country. The US invaded Iraq without UN authorisation or evidence that Iraq posed a serious enough threat to America to warrant a pre-emptive strike. The Bush government set up prisons in Guantanamo Bay and elsewhere and abused the rights of prisoners. While the Obama administration has been talking about withdrawing troops from Iraq, America has neither apologised to Iraq and the world for breaking

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international peace, nor committed itself to bringing those who started the war to International Court. The White House has shown no interest in providing Iraq with war reparations. The damage this has done to US democracy and its leadership role in the world is not easily reparable.

Economically, the ethos of free capitalism in America has also been challenged, especially by the present financial crisis. A combination of human greed, a lack of adequate governmental regulation and monitoring, plus the impact of the 9/11 attack on consumption and saving behaviour,¹ have all resulted in an unprecedented economic crisis that has shaken the credibility and viability of American capitalism. While the lack of next generation technology may partly contribute to the deteriorating situation, it is also obvious that the US financial institutions are to undergo a major revamp.

This explains why President Obama has come to power after only a short stint as politician in Washington, D.C. His commitment to change has already refreshed the image of America worldwide. In recent months, the Obama administration has succeeded in 'resetting' relations with Russia, and is also to address difficult questions with Russia on missile defence in Central Europe and the NATO membership of Georgia. The US has managed to repair the transatlantic relationship with its NATO allies and is re-committed to a multilateral foreign policy approach. Washington has also stabilised relations with Beijing. Furthermore, President Obama has made reconciliatory gestures towards Iran, Cuba and Venezuela, calling for dialogues with these countries. President Obama has even envisioned a world free of nuclear weapons in which the US plays a leadership role.

Although the rebuilding of the US global position will be a long process, it has taken a constructive new turn already. In the meantime, it is still far from certain that the American economy will ride out the most serious difficulties it is currently facing. America has not yet returned to the heyday of the Clinton era, however. In terms of foreign policy, the US is hopeful to be able to reassert its leadership, if it can only deal with its 'anti-terror' wars in Iraq and Afghanistan reasonably well. But so far there is no

¹ The US Federal Reserve systematically used interest rates to macro-adjust the public's saving and consumption after the psychological shock of the 9/11 terrorist strike. Immediately after the attack, there was concern that the public might be less interested in spending so interest rates were cut repeatedly to reduce saving and increase the circulation of the currency.

certainty that it can fix the deep flaws within its free capitalist system any time soon.

Shifting centres of power

Against this backdrop, the US is losing some of its power and lustre. Its economic weight today is less than one quarter of the world's total, declining from one half at the end of WWII. With military spending at nearly one half of the world's total, the US overspend on defence has undermined the country's position, especially at a time of security uncertainty.

In addition, among the traditional players of Western industrialised economies, many have been slow to generate new competitiveness in past decades. Therefore, the traditional G7/G8 is defining the world economy and world security less and less. Instead, the new grouping of G13/G20 countries is becoming more relevant in forecasting trends in world development.

In this regard, Asia is increasingly relevant in the shifting centre of world power. In particular, East Asia has become a world economic engine, with Japan, China and the Republic of Korea (ROK) as the core actors in the contemporary wave of industrialisation. Both Japan and the ROK are members of the OECD already, given their economic weight and per capita performance. Mainland China's pace of development is more impressive as it is quite possible that its economic size will overtake Japan's this year, rendering China second only to the US in the world in terms of overall size of economy.

Meanwhile, this part of the world includes most of the BRIC nations – China, Russia and India – along with Brazil (and potentially Indonesia) – they represent the fastest developing economies. Prior to the financial crisis of 2008, these economies maintained a rather impressive pace of economic development, given their substantial supply of human resources (at least in the case of China and India) or natural resources (in the case of Russia). Presently, the Chinese economy maintains a positive and impressive growth – at 9.1% in 2008 – compared with all other major economies that were declining at this time.

The world order is certainly being restructured. With or without the economic downturn, the Chinese economy has a good chance of catching up with America in terms of quantity, by 2020-2030. This is assured at a time of globalisation, when Western capitals are matched with inexpensive

labour resources – abundantly available in the Chinese market or elsewhere. As long as China is an open economy, its traditional liability of having huge numbers of poor unemployed human resources will turn out to be an asset for economic cooperation with the West.

On closer inspection, even if the Chinese economy matches that of Japan in 2009/2010, China's per capita economic output will merely be 10% of that of Japan. Also, even if the Chinese economy is eventually on a par with that of the US, its per capita performance will only be about one quarter of America's, compared to the current ratio of 7%. It would be no surprise if China surpasses Japan and the US, eventually. What is a surprise is why China's per capita GDP is now only 7% of the US, and 9% of Japan's.

When China's economic size grows to match America's, it will also reach that of the EU. The size of the Chinese economy is already 4 times greater than that of India, so it is not unthinkable that China will overtake India, when Beijing matches Washington around 2020-2030.

Defence-wise, China's growth is also rather impressive. Currently, China's official defence budget of \$70B (RMB¥480B) is the 3rd biggest in the world, next to that of the US and the UK.² Although China's defence budget is just 1/7 of the US budget, it doubles every four years (or quadruples every eight years). This means that China's defence budget will reach \$280B by 2017 – the same level as US military spending in 2000, or 58% of the US in 2008. This does not include any defence R&D with costs incurred by non-military departments, the retirement compensation for military personnel incurred by civilian departments, or the differences due to purchasing power parity between the Chinese currency and the US dollar.

A new world order through cooperation

Such rapid growth is likely to have an impact. On the one hand, the long-term relative decline of the US is unavoidable, given the emergence of East Asian economies and the newly industrialising markets worldwide,

² According to Stockholm International Peace Research Institute (SIPRI) Yearbook 2009, China's defence spending has already overtaken that of the UK to become second only to that of America. See, SIPRI Yearbook (2009) "Armaments, Disarmament and International Security", Oxford: Oxford University Press.

including those in the BRIC nations. On the other hand, until November 2008, China's economic miracle indicated the arrival of a unique competitor for America.

But the Chinese phenomenon may not be sustainable. Although all major Western economies are mired in the financial disaster, China's performance is also in doubt. China's GDP growth has dropped from 13% in 2007 to 9.1% in 2008, and most recently its GDP is only 6.8% (4th quarter in 2008) and 6.1% (1st quarter in 2009) of what it was the same season a year ago.

China's high dependence on exports has brought a tremendous boost to the economy. But at a time when the US and other Western economies are facing a confidence crisis in consumption and credit, and when their need to outsource China's production is fast shrinking, China is meeting its own structural problem of lacking sufficient domestic consumption, despite its large savings.

China is unlikely to replace America in the near future for a number of other reasons. Fundamentally, China has not established a culture of technological innovation to upgrade its economy through its own efforts. China's dire environmental and ecological degradation simply harms its own chances of sustainable development - this fact is even more evident and significant in the present financial crisis.

Although China is hopeful of surpassing America in terms of economic size in one or two decades, it still has to expand its economy two fold at least. This implies further unprecedented environmental challenges and energy needs. Without resolving these problems, further economic expansion in China on a massive scale could be the catalyst for ecological catastrophe and huge social instability, and is therefore unattainable. Failing this, China would not only be unable to boost its economy to become a peer of America, but could become a source of global concern. This is not a welcome scenario, for either China or the rest of the world. It will be in the interests of all concerned to avoid such an occurrence through international cooperation.

President Obama has revoked his predecessor's handling of environmental policy and is now committed to the reduction of greenhouse gases. This presents China with both pressures and opportunities - obliging them to spend more on environmental protection and cut the net increase of wealth generation. But it is in China's interests to do this sooner rather than later. Though it might be hard for the Chinese government to

accept a rigid quota of CO₂ reduction for some version of a post-Kyoto Protocol agreement, it cannot fail such a litmus test at the UN Copenhagen Climate Conference this December.

A short-sighted vision cannot bring China to the truly competitive position of deserving G2 status with the US. This would mean the Chinese leadership balancing its short-term interests in assuring job employment and social stability, with its long-term interests in assuring sustainability, both of which are crucial to the legitimacy of the government.

For America's part, it has to play a leadership role in curtailing CO₂ emissions, and inducing other countries to commit to doing so, commensurate with their economic affordability. If the US fails to negotiate with China on mutually acceptable terms, the ensuing disaster will be of global proportions, considering that both countries are top emitters of greenhouse gases.

At least for the next 10-20 years, the US position as sole superpower will not be challenged. American competitiveness in terms of its natural resources, geo-strategic edge, political institutions, technological innovation, research and educational competence, all enjoy a certain edge. China has certain inherent disadvantages at per capita level: a shortage of natural resources, including clean water, a lack of ready energy supplies and efficiency of use, a scarcity of education resources, let alone the need to reconstruct China's social ethics in this new millennium.

But China does not need to wait to catch up with America to play a globally constructive role. Already, China has been convening the Six Party Talks to play a pivotal role in Northeast Asian security, and has sent its ships to the Gulf of Aden to protect international sea lanes against pirates. Reportedly, China has sent more UN Peacekeepers than other countries to conflict-stricken areas, including Darfur. China is also the biggest donor amongst all developing countries, so far having provided official development aid to other developing countries; a total of RMB¥200B (US\$29B).

It is also worth mentioning that China has worked strenuously to settle the North Korean nuclear issue. Fundamentally, this nuclear issue is an obstacle to relations between North Korea (DPRK) and the US. The mutual hostility between Washington and Pyongyang has ultimately led the DPRK to move towards nuclear armament. After the failures of his predecessors over this issue, President Obama is now under some pressure to resolve the issue peacefully.

Although the Obama administration has made diplomatic moves to nearly all rival states, the new US leadership has been slow to initiate a strategy to ensure denuclearisation and peace on the Korean peninsula. It seems too late to reverse the nuclear course of the DPRK, in view of its second nuclear testing. However, the Obama administration has succeeded in garnering international support to exert pressure on the DPRK, and China is a key player in this effort.

To sum up, the US is now experiencing a more complex relationship with China - more cooperation combined with more competition. Though China won't be a serious competitor to America in any time soon, Beijing might already have posed a challenge to Washington in some ways. The Bush administration's disastrous unilateral foreign policy, as well as China's success in economic development, have already afforded China more influence in the world. China's persistent low-key posture had made its peaceful rise more or less accepted by America and its allies. One can expect that in the next decade or two, America's hegemony is unchallenged while China's will be in the ascendant. This is perhaps the world order that many can contemplate over the next two decades.

SOMALIA AND THE PIRATES

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Somali Piracy: Historical Context and Political Contingency

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The problem

Even though kidnappings, killings, attacks on UN and NGO compounds, suicide bombings, and the assassinations of local judges and other public figures, and the many other features of lawlessness in the Horn of Africa have become so commonplace that they are rarely now reported by European news media, from September 2008 Somalia once again dominated the news agenda. In that month pirates operating from small ports and harbours along Somalia's eastern coast mounted a series of successful attacks against international shipping, first capturing a Ukrainian vessel with its cargo of heavy armaments bound for southern Sudan (via the Kenyan port of Mombasa), and then intercepting a number of container ships before mounting an attack on a passenger vessel that was repelled by the crew. Finally, in November, the pirates landed the prize of a fully-laden Saudi-owned oil tanker. By the end of the year the pirate gangs operating out of Eyl, Haradheere and other harbours along the desolate eastern coast of Puntland, were reckoned to be holding no fewer than 40 vessels for ransom, with more than 200 crew members in captivity.

As analysts belatedly got to grips with this story, the world came to realise that Somali piracy had been a serious problem for a long time. The events of the closing months of 2008 only reached global attention because of the cargoes and value of the shipping captured. In fact, ransoms had regularly been paid out by all the major international nautical insurers to free other captured shipping over the previous decade. During 2008 alone, it was estimated (though no one can know the true figure because of the secrecy of the insurers and ship-owners) that ransoms worth above US \$45 million had been paid out to recover vessels and crew from Somali hands.

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By the time another spate of attacks materialised in April 2009, American and international naval task forces were operating in the region to protect shipping, and international anxiety had come to focus on the potential links that might exist between Somali pirates and Islamic terrorists. Piracy was most commonly presented as a function of Somali's 'failed state' – perpetrated along a coastline with no state defences, no customs authorities, and no national navy. The presence of known terrorists in the southern Somali towns of Mogadishu and Kismayo and the strengthening of the Al Shabaab movement, especially following the withdrawal of Ethiopian forces in January 2009, framed America and European concerns.¹ The weakness and corruption of reconstructed but as yet internationally unrecognised governments in Gerowe (Puntland) and Hargeisa (Somaliland) only served to emphasise the lawless and apparently unregulated political economy of the region.

Many assumptions about the Somali state and its failure underlie the analysis of the piracy threat and its causes, but in this paper I wish to refute all of them and instead offer a more historical and contextualised explanation of what has been happening and what its causes might be. Let us begin by challenging five commonly repeated assumptions about 'the pirate problem':

1. Piracy along the coast of Somalia and in the Gulf of Aden is **not** a new phenomenon – far from it: piracy here has a deep and rich history, embedded in a maritime economy.
2. Piracy is **not** linked to Islamic fundamentalism in Somalia, and nor is it promoted in support of terrorism or the funding of terrorism. This is not to say that terrorists have not sought to tax the activity of pirates – the point is one of cause and effect. Fundamentalism and terrorism are explicitly **not** the causes of piracy.
3. Piracy is **not** a function of the failure of the Somali state – and this assumption has perhaps been the most pervasive yet the most

¹ R. Marchal (2007), "Warlordism and terrorism: how to obscure an already confusing crisis? The case of Somalia", *International Affairs*, Vol. 83, No. 6, pp. 1091-1106; R. Marchal (2009), "A tentative assessment of the Somali Harakat Al-Shabaab", *Journal of Eastern African Studies*, Vol. 3, No. 3, pp. 381-404; K. Menkhaus (2008), "Somalia: a country in peril, a policy nightmare", *ENOUGH Strategy Paper*, September, <http://enoughproject.org> (accessed 20 October 2008).

misleading of all. The reinvigoration of Somali piracy is connected to the reconstruction of the state in what was Somalia, not its collapse, and its consequences are therefore very serious for the future. Strengthening the state will **not** necessarily lessen piracy, though changing the character of the transactions conducted by state actors probably will.²

4. Piracy is **not** a function of Somalia's 'war-lord politics'. This does not mean that there are no connections between pirate gangs and the political overlords who control the Somali regions, but piracy is not promoted or directed by such people.
5. And lastly, and here we must address some more imaginative aspects of the international coverage of the piracy question, Somalia's pirates are **not** 'global warriors' concerned to save our planet from exploitation, and **nor** should they be seen as social bandits seeking to achieve a redistribution of resources from the rich to the poor. However, this rhetoric has its origins in the historical experience of coastal communities over the past 30 years and in dismissing it as a motive we should not ignore the deeper message it conveys about the stability of the coastal economy.

None of this is intended to underplay the importance of the piracy problem. Somali's pirates may be young, and they may be naïve in several respects, but they are incredibly dangerous and we are right to be deeply concerned about the consequences and the implications of their activities. But to do that we need to better understand what forces drive those activities, firstly by examining the historical context out of which the current piracy has emerged, and secondly by identifying the political contingencies that affect piracy.

Historical context

Eastern Puntland has for centuries been a maritime community. Fisheries and the sea dominate the local economy here, and there is also an ocean-going sea-faring tradition of dhow sailing and of engagement with international maritime trades. Red Sea sailors were known in Europe as

² H. Verhoeven (2009), "The self-fulfilling prophecy of failed states; Somalia, state-collapse and the global war on terror", *Journal of Eastern African Studies*, Vol. 3, No. 3, pp. 405-25.

Lascars – communities of these adventurers were to be found in London and other major British ports by the eighteenth century: even today there is a rest home for retired Somali sailors in Cardiff's Tiger Bay, with more than a dozen elderly Somali seafarers still in residence. Lascars were recruited by European shipmasters in the ports of the Red Sea, the Gulf of Aden, the Gulf of Persia, and the west coast of South Asia. They moved with the monsoon around the waters of the northern Indian Ocean, working the coastal dhow trade as well as the transcontinental sailing ships that plied these waters in increasing numbers from the late-seventeenth-century. Majerteen and Hyobo men from the eastern coast of Puntland were renowned as hardy and skilled seafarers in these waters, as were those recruited from the northern shore of what is now Somaliland, from the ports of Berbera and Bosoca.³

Piracy and other forms of seaborne predation were known to Europeans sailing these waters from at least the early eighteenth century. But in the age of sail, seaborne piracy here was limited to smaller local dhows, these being frequently intercepted and run down by pirates who would seize the cargoes. The dhow trade between the Persian Gulf and the coast of Yemen to Berbera, Aden, Djibouti, and Massawa was commonly pillaged by pirates from both the Somali and Yemen coasts. Larger ships of European type were generally too large and too well-protected to be targeted by such activities, and until the opening of the Suez Canal relatively few larger vessels passed on the west-east lane through the Gulf of Aden. However, the waters around the Somali coast were treacherous to shipping in other respects – the currents and tides, and the strength of the monsoon making this a notoriously difficult stretch of water for sailing ships. The north-eastern and eastern coastlines of Puntland were known for these dangers by the early eighteenth century, and by the 1780s there had been several infamous cases of shipwreck on this coast with the survivors being taken captive and then ransomed by local communities. There was a seasonal rhythm to this for the people of coastal Puntland. When the winds were fair and the coastal currents good, they engaged in fishing and coastal

³ On Lascar history, see D. Frost (ed.) (1989), *Ethnic Labour and British Imperial Trade: A History of Ethnic Seafarers in the UK*, London: Frank Cass; Charles Guillain (1856), *Documents sur l'histoire, la géographie et le commerce de l'Afrique orientale*, 3 vols, Paris; D. Robinson-Dunn (2003), "Lascar sailors and English converts: the imperial port and Islam in late nineteenth century England", AHA Conference paper.

trading; in the monsoon season they turned to land-borne pursuits and harvested the European shipping that floundered on their rocks.⁴ This seasonality still affects the incidence of piracy against dhows along this coastline today.

As Linda Colley's best-selling history of ransoming, *Captives: Britain, the Empire and the World 1600-1850*, makes clear, the ransoming of captives was a long-term strategy of investment that did not necessarily bring early results.⁵ Pirates who hope to accrue from ransoms have always needed patience – in the early nineteenth century it might take several months to deliver the ransom demand to the shipping agent in Aden or Djibouti, and then many months more before a response was received. Among pirates here, as in the Caribbean or in North Africa, the short-term gains were from the pillaging of cargo; ransoming was a slower and altogether more speculative enterprise. The need to keep hostages safe and in good health has long been well understood along the Puntland coast.

Historians writing about the Majerteen and Hobiyo polities provide us with details not only of opportunistic pillaging or wrecks and the subsequent ransoming of European and Asian captives, but explain how lights and fires were set in a purposeful attempt to lure ships onto the rocks. Wayne Durrill, writing of Majerteen in the late-eighteenth and early nineteenth-century links this explicitly to a political system of predation, from which the ruling political elite received rent for every wreck, just as they controlled and taxed the fisheries and other trade of the coastal ports by this time.⁶ The Italian historian Battera, whose study of the Puntland coast takes us through to the early twentieth century, elaborates on the continuation and extension of this predation and its importance in building the economic strength of the local Hobiyo and Majerteen polities through the systematic payment of tribute.⁷ Wrecks on the coastline were treated as the property of the local sheekh, who was thereby entitled to a share of the

⁴ W.K. Durrill (1986), "Atrocious misery: the African origins of famine in northeast Somalia, 1839-1884", *American Historical Review*, Vol. 71, pp. 287-307.

⁵ L. Colley (2002), *Captives: Britain, Empire and the World 1600-1850*, London: Jonathan Cape.

⁶ Durrill, *op. cit.*

⁷ F. Battera (2004), *Dalla tribù allo Stato nella Somalia nord-orientale: il caso dei Sultanati di Hobiyo e Majerteen, 1880-1930*, Trieste.

spoils. This was seen as part and parcel of the political control of, and protection of, coastal trading.

Thus, the role of **predation** and **tribute** in shaping the politics of state formation in Somalia is clear in the excellent historical work of both Durrill and Bottera, linking the maritime economy of the coastal zone to the inland economy of pastoral production and agricultural exchange described so eloquently in the work of Lee Cassanelli.⁸ Both coastal historians also make the point that it was always the maritime economy that presented the opportunities for the more rapid accumulation of wealth by those willing to use coercion to exert control of trading networks and those most willing to take the risks.

Smuggling is another element of the maritime economy that we need to consider here, because although its importance emerges rather later, it has been intimately linked to piracy along the Red Sea Littoral and in the Gulf of Aden since the early years of the twentieth century. The second half of the nineteenth century saw steam replace sail, thus reducing the opportunities for piracy of wrecking against European shipping, yet the opening of the Suez Canal saw a dramatic increase in the number of ships plying the waters through the Gulf of Aden. From the late nineteenth century through to the early twentieth century, piracy in these waters was confined to sailing ships, predominantly dhows and the merchant ships that plied between the ports of north-east India and the gulf of Aden, and thus was very much a local matter affecting trade between the various ports of the region. The advent of colonialism at the end of the nineteenth century placed those ports in the hands of European governments who sought then to tax the intermediaries conducting trade. In an important sense, the predation of European colonialisms replaced the predation of local sheikhs, but essentially nothing had changed very much. However, differences between the laws imposed by the French, Italian and British colonialists in this region enhanced the opportunities for smuggling between the various jurisdictions – a factor that had already been apparent in the trade during the second-half of the nineteenth century.

⁸ L.V. Cassanelli (1982), *The Shaping of Somali Society: Reconstructing the History of a Pastoral People, 1600-1900*, Philadelphia: University of Pennsylvania.

Details of this trade and the rampant smuggling that accompanied it are found in Richard Pankhurst's magisterial survey of the Red Sea ports,⁹ and have most recently been elaborated in Jonathan Miran's wonderfully evocative history of the port of Massawa.¹⁰ Indian and Arab trading houses were well-established in all the ports of the region by this time, and in often fiendish competition with one another and with local traders they had succeeded in establishing dominant positions over credit provisions in many of the key ports. Indian and Arab traders paid their dues in tribute to local Somali political leaders, and in return facilitated money-lending to local traders, some of whom brought goods to the coast from inland and others who were themselves involved in maritime trade. European colonialisms brought new currencies into this market, as well as new regulations, that saw many of the established trading firms seeking ways to avoid colonial oversight so as to maintain their own monopolies and privileges. The complexity and intimacy of this history is hinted at in Pankhurst's account of the pricing structures, licensing regimes and tribute systems operating in the various ports.¹¹

By 1919, coastal smuggling was a key issue in the region for all of the colonial powers – principally the British in Aden and Berbera, the French at Djibouti and the Italians at Massawa and along the eastern Puntland coast and down to Mogadishu. The outbreak of the First World War politicised this even further, with stories of gun-running across the Red Sea as local traders sought to break embargoes and licensing controls – troubles that were again to be vigorously renewed with the Italian conquest of Ethiopia in 1936 and the outbreak of the Second World War in 1939. By the 1920s stories of smuggling and seafaring adventures in the Red Sea were immortalised in the writings of Henry de Montfried, whose autobiographical adventures were recorded in more than 20 novels, including *Hashish – a Smuggler's Tale*, and *Smuggling Under Sail in the Red*

⁹ R. Pankhurst (1965), "The trade of the Gulf of Aden ports of Africa in the 19th and early 20th centuries", *Journal of Ethiopian Studies*, Vol. 3, pp. 36-81.

¹⁰ J. Miran (2009), *Red Sea Citizens: Cosmopolitan Society and Cultural Change in Massawa*, Bloomington: Indiana University Press.

¹¹ R. Pankhurst (1974), "Indian trade with Ethiopia, the Gulf of Aden, and the Horn of Africa in the 19th and early 20th centuries", *Cahiers d'Etude Africaines*, Vol. 10, pp. 453-97.

Sea.¹² The British suspected de Montfried of running cannabis and guns into Djibouti and Massawa from Yemeni coastal ports, and had him arrested and his skiff impounded on more than one occasion.

Illicit maritime trade has a deeply rooted connection to local political actors in this region, but there has also always been a very fine line between legitimate trade and smuggling. Henry de Montfried had exceedingly good relationships with the leading coastal sheikhs on the Somali and Yemeni coastlines and was a close associate of the main European merchants who were involved in coastal trade. Among these was a fellow Frenchman named Antonin Besse, who ran what was by the late-1920s the region's largest trading company, based in Aden. Besse employed de Montfried many times to run trade goods in the region, and his good name became briefly somewhat besmirched by this association – especially during the 1940s when de Montfried again fell under grave suspicion of gun-running.

Although local smuggling remains vibrant and economically important, by the 1950s we hear less about international piracy in this region, although there are occasional incidents of tourist yachts being caught up and attempts to ransom the crew. Local piracy against dhow traders and fishing vessels continues, however, records of which are to be found in the British Colonial Office papers on Somaliland right up until independence at the beginning of the 1960s.

The emphasis of the maritime economy of the Somali coast shifted very emphatically in the 1960s as Cold War politics blew into the Horn. Russian support for Somalia brought a strong military presence to the coastline, with Berbera and Mogadishu's port facilities being heavily militarised and internationalised. The Soviets also brought Somalia a sophisticated and modern fishing fleet for the exploitation of its own coastal waters, and with this commercial fishing new kinds of opportunities for predation were created.

As far as we can tell from limited sources, sporadic smuggling continued through the smaller ports and harbours of Somalia throughout the 1960s and 1970s with virtually no controls by the state – “it has always

¹² On de Monfried and Besse, see Julian Lush, “Salute to an adventurer; Musee Henry de Monfried”, and Anon, “In the lion's paw: Henry de Monfried and the British at Aden (1916-1922)”, both *British-Yemeni Society*, www.al-bab.com (accessed 5 November 2009).

been this way” as one elderly fisherman told an American journalist back in November 2008. The appalling economic management of the Said Barre government, which saw corruption and rent-seeking invade virtually every facet of Somali public life during the 1970s finally spiralled into financial collapse by the mid-1980s with the rapid re-invigoration of local political actors in directing economic activities in each part of the country. The maritime economy suffered in the management and the collapse of the Barre regime, along with all other aspects of the Somali economy.

Political contingency

The political difficulties of Somalia since 1991 have been well documented. Here I will restrict myself to five brief points relating to the maritime economy.

(a) Fisheries and coastal customs

French political scientist Roland Marchal is a long-time critic of the simplicities with which the world tends to consider Somalia’s problems. His view of the current piracy crisis is typically trenchant. Marchal makes a connection between piracy and the collapse of international fisheries along the coast.¹³ To that we can add analysis of the efforts by Puntland’s putative government to get a grip on its ports and harbours to give a more rounded view of how fisheries and customs issues have impacted very directly upon the recent upsurge of piracy.

Marchal reminds us that piracy was intimately connected “with the early stage of the civil war and the international intervention”.¹⁴ Before 1991, there were very few attacks on international shipping, but with the collapse of the Barre government, harbour and port facilities became prizes to be won in the struggle for economic resources. In December 1989 a Somali rebel group, the Somali National Movement, seized an oil tanker and two other ships off the Somali coast, and issued warnings to international shippers not to deal with the “dying Somalia regime”. These ‘pirates’ off-loaded everything they could from the ships before releasing them early in 1990. There has been a pattern of interference with

¹³ R. Marchal, “Peace operations and international crime: the case of Somalia”, unpublished paper.

¹⁴ Marchal, “Peace operations”, p. 5.

international shipping that has been slowly escalating in the waters off Somalia ever since; the reason is to be found in the economic importance of maritime resources.

This is most clearly seen in relation to the fishing industry. Having run a successful large-scale fishing industry out of Mogadishu from the early 1960s, the ships and infrastructure of this Somali enterprise gradually fell into disrepair and disuse after 1977. In 1983 the Somali government entered a new agreement with an Italian firm (the Somali High Seas Fishing Company, known as SHIFCO), which provided a fleet of five trawlers and one freezer mother ship to supply fish caught off Somalia to Italy and the EU. When the Barre government collapsed, SHIFCO relocated its base to Yemen, from where the company was run by close associates of the Barre family. In an effort to retain a monopoly of off-shore trawling, SHIFCO allegedly paid monies at this point to leading Somali political figures to engage their support.

This arrangement initially succeeded in securing SHIFCO's interest, but was soon challenged as the various factions that emerged after the fall of Barre turned against one another and began to compete to control economic resources. Rival political elites began to support other contractors to fish in Somali waters, while ships from other international countries now flooded into Somali waters undermining SHIFCO's monopoly. Marchal reports that the UNOSOM Justice Commission looked at this issue in 1993, but elected not to seek to interfere with SHIFCO's contract. In the meantime, the various political factions with interests in the ports along the coast began to compete against each other to tax the industry, with the first incidents of local boats seeking to interfere directly with the trawlers operating off-shore. To do this, local sailors needed larger, faster boats, and they began the process of improving their technology accordingly.

The foundation of the new 'state' of Puntland in the late 1990s brought this to a head. The government of Abdullaahi Yuusuf wanted to gain revenues from taxing off-shore fisheries, and so employed a private security firm, Hart, to administer its ports and coastal customs. Stig Jarle Hansen's excellent article, published in *Review of African Political Economy* in December 2008, explains how this apparent 'liberalisation' and 'security' measure in fact played into local politics between rival factions in the war

to gain tribute.¹⁵ Hart ultimately failed to secure the ports of Puntland, but in the process they employed and trained a good number of local men – perhaps as many as 40 in all – in the use of GPS, maritime tracking and security methods, and the techniques of apprehending, boarding and securing ‘suspect’ shipping in hostile waters. There is good reason to suspect that Hart’s former employees are prominent among the gangs now preying upon shipping off the Somali coast.¹⁶ With a combination of improved technology and know-how (computer tracking and communications equipment), heavy weaponry (rocket-propelled grenades capable of piercing the hull of a vessel), and excellent local seamanship (in the form of local fishermen who know the waters, tides and currents of this difficult coast), the most professional of the pirate gangs is now capable of running down large international shipping and at increasing distances from the shore.

(b) Political transitions (Islamic courts)

The American-sponsored Ethiopian invasion of Somalia was designed to remove elements from Mogadishu who were believed to be operating in support of fundamentalist Islamic politics in general, and the interests of anti-America terrorist groups in particular. The Islamic Courts administration that had taken over in Somalia’s former capital had certainly restored many elements of sharia law, and there were almost certainly a number of wanted men in hiding in Mogadishu – though whether they were under the protection of local political elites or not is a moot point. Yet, as Hassan and Barnes, among many others, have forcibly pointed out, the Islamic Courts government enjoyed a high degree of local support and credibility precisely because they were successful in restoring a degree of order to the city and its suburbs, bringing back trade and other civil activities to the great benefit of the local population.¹⁷ Most importantly, they also controlled the undisciplined and predatory militias whose greed and extortion was inflicting misery on all of those seeking to

¹⁵ S.J. Hansen (2008), “Private security and local politics in Somalia”, *Review of African Political Economy*, Vol. 35, No. 118, pp. 585-98.

¹⁶ R. Middleton (2008), *Piracy in Somalia: Threatening global trade, feeding local wars*, Chatham House, Africa Programme Briefing Paper, October.

¹⁷ C. Barnes & H. Hassan (2007), “The rise and fall of Mogadishu’s Islamic Courts”, *Journal of Eastern African Studies*, Vol. 1, No. 2, pp. 151-60.

restore business and service provision in the city. One of the positive aspects of the period in which the Islamic Courts ran Mogadishu was the improvements in port security around the harbour area, and the clearing out from Mogadishu of a number of private groups who were preying upon local shipping in the area.

Did the demise of the Islamic Courts then spawn a rise in piracy? No – that is too simple a conclusion: but their presence reinforced a degree of political order in which criminal activity in general was suppressed. Somali piracy needs to be understood as a criminal activity, not a political act.

To what extent is the resurgence of piracy on the Puntland coast therefore a feature of criminality emanating from Puntland's political elite in Gerowe? The government in Gerowe wishes to be viewed as a Western ally, and thereby hopes to gain international legitimacy. But in seeking to maintain local support, politicians in Gerowe cannot afford to be too closely identified with the Ethiopian invasion or directly with US policy. It is undoubtedly the case that some prominent politicians and business people in Gerowe have close links to the pirate gangs and their financiers. In Gerowe's difficult political environment, a blind-eye has been turned to those among the Gerowe administration who benefit in the form of tribute by maritime predation.

(c) Criminality and the economy

As with the case of the Balkans in the 1990s, the emergence of criminal networks amid reconstruction has been dismissed in Puntland and Somaliland as a 'merely-to-be-expected' opportunistic response to political transition. Only later did those involved in the Balkans come to see the dangers of letting criminal factions into the very heart of government in this crucial transitional phase.¹⁸ Are we repeating the same mistake in the horn of Africa? Embedded criminality is extremely difficult to dislodge from government, as we have subsequently learned in the Balkans, in some of the former Soviet republics, and most recently in Croatia. In Africa, parallels to the Somali case are to be seen in DRC, and also in Liberia.

¹⁸ For the broader argument, see R. Naylor (1995), "From Cold War to crime war: the search for a new national security threat", *Transnational Organized Crime*, Vol. 1, No. 4, pp. 37-56.

Given its current geo-politics, Somalia appears to be in the process of partition.¹⁹ And the circumstances of this process is creating a politics in which criminality is becoming embedded. It is grimly ironic that Africa's one overtly irredentist post-colonial state should be the one that is first torn into pieces. There are three new states in the making at present. Somaliland, Puntland, and the residual state of Somalia that is at least putatively run from Mogadishu. How legitimate are these new polities? The world still hesitates to recognise Somaliland, although it receives encouragement and support from a number of countries and through UN agencies. Likewise Puntland, the self-proclaimed 'state-in-the-making', with its capital and so-called 'transitional government' at Gerowe. These may not be perfect arrangements, but international agencies work with the administrations in Hargeisa and Gerowe because some authority is better than no authority – of course, so long as this authority is not linked to fundamentalist Islam. The administrations of Puntland and Somaliland are vehemently opposed to one another, yet they are both acutely aware of the need to play politics in a way that will not alienate Western allies.

(d) The incremental scale of piracy

There is not yet any clear indication of how many distinct pirate gangs are operating from the coast of Somalia, but the best guess puts the figure at around ten. Two or three of these are relatively new, the others being believed to be long-standing practitioners. Up to 2007, it has been estimated that each gang made around a dozen attacks on international shipping per year. The apparent up-scaling of pirate activities since 2007 is therefore a consequence of only two or perhaps three new gangs coming into

¹⁹ For the complex politics of this, see variously: M. Bradbury (2008), *Becoming Somaliland*, Oxford: James Currey; M. Bryden (2003), "No quick fixes: coming to terms with terrorism, Islam, and statelessness in Somalia", *Journal of Conflict Studies*, Vol. 23, Fall, pp. 24-39; A. de Waal (2004), *Islamism and its Enemies in the Horn of Africa*, London: Hurst & Co; T. Hagmann (2005), "From state collapse to duty-free shop: Somalia's path to modernity", *African Affairs*, Vol. 105, No. 416, pp. 525-35; K. Menkhaus (2007), "The crisis in Somalia: a tragedy in five acts", *African Affairs*, Vol. 106, No. 204, pp. 357-90; K. Menkhaus (2006/07), "Governance without government in Somalia: spoilers, state building and the politics of coping", *International Security*, Vol. 31, No. 3, pp. 74-106.

operation.²⁰ This incremental scale of increase needs to be borne in mind – a relatively small investment in equipment and technology, or the relocation of pirates from one area to another, or the shifting of a criminal network from smuggling into piracy can be sufficient to create the kind of increase we have seen in the past two to three years. Given the reported success of pirates over the period in persuading insurers to pay ransoms for the ships held, it may seem hardly surprising that additional crews have joined in the action.

(e) International architecture

It has been estimated that ransoms to the value of US \$45 million were paid out to Somali pirates during 2008. So, where does the average pirate spend this money? That of course is the question that leads many advisors on international security to worry that this money may find its way into the hands of others who have ambitions beyond acquisitive consumerism. But, despite claims of the pirates being among the wealthiest of their community and anecdotal stories that they are propping up the local economy, it is clear that only a tiny fraction of the rewards from piracy finds its way back into the local economy. The pirates themselves take money and valuables from the ships they attack – they stole \$30,000 from the safe of the US ship whose captain was taken hostage, for example – and parts of cargoes are often sold-off into Somalia's thriving black economy while the ships sit at anchor awaiting the due process of the ransom negotiations. The Ukrainian ship carrying the tanks and heavy weapons bound for Sudan was only saved from being stripped out and its cargo looted because the pirates could not find a way to move the heavy tanks and other machinery from the hold.

The international architecture of the laundering of the money delivered for ransom remains hazy, but it is suspected that there are connections to members of the Somali diasporas, notably in Dubai and Doha. At least some of the money then finds its way back to Somalia via legitimate trade exchanges of goods purchased with the ransom earnings, to be sure, but the vast bulk of the millions secured through piracy is clearly **not** being invested in the Horn of Africa.

²⁰ Middleton, *Piracy in Somalia*.

The Evolution of Piracy

Rob de Wijk*

Introduction

Piracy is not a new phenomenon, but over the years there has been a shift towards more advanced, sophisticated and professionalised forms of piracy. This paper discusses its evolution and looks at the changing modus operandi. Although most piracy attacks are conducted for economic gain, politically motivated piracy should not be overlooked.

Piracy is defined as an “act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in furtherance of that act”.¹ The conclusions and insights provided in this paper are largely derived from The Hague Centre for Strategic Studies’ (HCSS) piracy database, which contains the majority of the incidents as of 2003. Although most of the HCSS piracy data are also included in the database of the International Maritime Bureau (IMB) and the shipping reports of the National Geospatial Intelligence Agency, the HCSS data also contain information about numerous other reported maritime-related security incidents, including kidnappings of oil workers and sabotage of oil pipelines, whereby maritime operators could be adversely affected.

Consequences

As integrated supply chains and ‘just-in-time’ management techniques are imperative in today’s global economic environment, new forms of piracy

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¹ Definition used by International Maritime Bureau (IMB). It is broader in comparison to the conceptualisation adopted under the 1982 United Nations Convention on the Law of the Sea (UNCLOS). The latter restricts its focus only to attacks that occur on the high seas, which is problematic since the majority of piracy incidents take place in territorial or coastal waters. For reasons of brevity, an actual or attempted armed robbery directed at a ship that is berthed, anchored or at sea is also included under the header of ‘piracy’ in this Future Issue.

have important economic repercussions. Disruptions of supply chains and increased freight rates have strong implications for the companies involved and affect business confidence.² The IMB estimated that costs related to piracy vary between 0.01% and 0.2% of the annual value of maritime commerce, which totals almost \$8 trillion USD.³ However, systematic studies designed to get a substantiated indication of the magnitude of economic costs have yet to be undertaken.⁴

This does not neglect the fact that the physical and psychological consequences of piracy attacks are serious. It is estimated that from 1995 to 2009,⁵ around 730 persons were killed or are presumed dead, approximately 3,850 seafarers were held hostage, around 230 were kidnapped and ransomed, nearly 800 were seriously injured and hundreds more were threatened with guns and knives.⁶ In most cases, the act of piracy falls within the category of armed robbery, where pirates board the ship and remove valuables from the crew. During the last two years there has been a slight increase in attacks committed for the purposes of hijacking a ship and kidnapping crew members for ransom. This trend is especially prevalent in Somalia and the Gulf of Aden region, where such violence accounted for 70% of the world total in 2007 and 80% in 2008. In these attacks, the preferred types of weapons are machine guns and rocket-propelled grenades (RPGs), indicating that pirates are becoming increasingly ruthless in these areas.

Modus operandi

Pirates are aided by the absence of a global law enforcement agency and the weak implementation of UN resolutions and maritime security regimes.

² M. Richardson (2004), "A Time Bomb for Global Trade: Maritime-related Terrorism in an Age of WMD", Institute of South East Asian Studies.

³ J. Hastings (2009), "Geographies of state failure and sophistication in maritime piracy hijackings", *Political Geography*, July; IMB (2007); P. Chalk (2000), "Maritime Piracy: A Global Overview", *Jane's Intelligence Review*, Vol. 12, No. 8, pp. 47-50.

⁴ Ibid.

⁵ Year-to-date: 21st October 2009.

⁶ HCSS Maritime Security Database (2009); M. Murphy (2007), "Contemporary Piracy and Maritime Terrorism", Adelphi Paper, International Institute for Strategic Studies, Routledge.

The establishment of EU and NATO maritime task forces off the coasts of Somalia demonstrates that the international community now takes implementation more seriously. The deployment of maritime task forces indicates that piracy has gone through different stages, causing an increasing threat to Sea Lines of Communication (SLOCs). Analyses of various databases reveal four forms of piracy.

Moderate, low-level piracy

The bulk of these attacks take place in bays, estuaries and archipelagos, where favourable geographic circumstances offer the best opportunities for pirates.⁷ In regions where targets are close to shore, berthed in ports or sailing through swampy river systems, such as the Niger Delta, South American Amazon and the Malacca Straits, low-level piracy is dominant. Obviously, these geographical characteristics are not only present in those areas; the Everglades and Northern Territory share them as well. However, the former are characterised by a high degree of lawlessness, poverty and a range of other variables that drive piracy. Pirates are often armed with only knives and pistols, while operating from rubber boats or small wooden motor boats. The intention of these armed culprits, occasionally disguised as naval officers or harbour police, is to ransack the ship and deprive the crew of their valuables before disappearing again in the darkness to seek refuge in their nearest sanctuaries. In the majority of cases, violence is 'limited' to assault and threatening of victims.

Advanced, medium-level piracy

Over the last several years, however, there seems to have been an increase in the levels of violence used. Pirates are increasingly employing heavier firearms and occasionally end up in gunfights with local authorities and naval forces. Mostly, the raids are generally hit-and-run attacks, but next to personal valuables specific cargo is often targeted as well. It would therefore seem that pirates' intelligence is getting better. The pirates, however, rarely view the cargo as the prime target of the hijacking. The main reason for this is that the economic landscape discourages particular operations that require a proper infrastructure to offload cargo and sell them on the open market. In addition, the lack of a functioning financial

⁷ Ibid.

sector and market system causes the pirates to focus on ransom negotiations for ship hijackings and the use of overseas financial networks.⁸ On the other hand, pirates in these areas do enjoy the advantage of operating in a political and judicial vacuum, meaning they have enough time to negotiate ransoms while not being pursued by legal forces. During kidnappings in, for example, the Niger Delta, crew members are the prime target for demanding ransom or are used as bargaining chips for the release of political rebels. By using high-speed boats, these armed assaults not only take place in close proximity to the shore, but also at ships anchored several nautical miles off coast, or even further up in the exclusive economic zone. In some areas, for example in the Horn of Africa, pirates are becoming more audacious, even committing attacks in broad daylight and giving interviews to various media outlets.⁹

Professional, high-level piracy

In some areas there is the occurrence of a particular type of pirate, with an even more sophisticated modus operandi than in the medium-level type of piracy. In the professional, high-level category, pirates use AK-47 automatic machine guns, RPGs and even P4A dynamite to commit attacks and threaten crew members. These pirates operate from so-called ‘mother ships’ to launch smaller crafts on the high seas, allowing pirates to target vessels farther out at sea.¹⁰ At present, the poorly policed waters off the Somali coast, Gulf of Aden, the Philippines and Southern India are particularly prone to this type of attack. The use of these mother ships has the implication that the ‘threat-zone’ for ships has expanded significantly. A few years ago this ‘threat-zone’ was approximately 50 NM off coast, but is already around 1000 NM off the coast of Somalia.¹¹ These pirates tend to favour larger vessels, above 10,000 Gross Register Tonnage (GRT), in order

⁸ J. Hastings (2009), “Geographies of state failure and sophistication in maritime piracy hijackings”, *Political Geography*, July.

⁹ Ibid.

¹⁰ Munich Re (2008), *Piracy - Threat at Sea*, Münchener Rückversicherungs-Gesellschaft, Germany.

¹¹ On May 2nd 2009, the Malta-flagged Greek tanker, the Ariana, was attacked by pirates in the Indian Ocean between the Seychelles and Madagascar, approximately 950 NM SE of Mogadishu, while carrying soy from Brazil to Iran (<http://www.eaglespeak.us/2009/05/somali-pirates-nato-stops-hijack-finds.html>).

to commit major criminal hijackings and kidnappings of the crew.¹² The preference for large ships can be explained by the fact that they yield some important advantages for the pirates. They generally have more crew members on board to kidnap or take hostage, meaning a higher ransom, and usually carry goods and commodities, such as palm oil and sugar, which sell fast on the 'black' market.¹³ Also, shipping companies that are attacked in international waters have, in general, a greater willingness to actually pay ransom, since they are better insured in such waters. Furthermore, the type of pirates that aim for large cargo ships operate under even more complicated circumstances than simply demanding ransom. It demands a high level of operational sophistication and professionalism to dispose of cargo without getting caught. It is hard to sell cargo straight off a hijacked ship, so it has to be stored, requiring a properly equipped network of ports, warehouses and commodities markets. Thus, pirates need to have a network in place that takes full advantage of the complex communication and transportation infrastructure; something pirates in Southeast Asia have managed rather successfully over the years.¹⁴

Politically motivated piracy

In certain cases piracy attacks are politically motivated. This manifestation of piracy differs significantly from the varieties described earlier. These types of pirates are better described as militants attacking ships or oil facilities as a result of local grievances. It is reasonable to assume that these politically motivated attacks might morph into 'pure revenue-seeking' groups, much like FARC in South America switched from political movement to narco-terrorism once they found that the attacks were too profitable to discontinue. In some cases these piracy attacks may resemble maritime terrorism. Their modus operandi classifies them as medium-level and high-level forms of piracy. For example, the well-trained and equipped Movement for the Emancipation of the Niger Delta (MEND) uses M-16

¹² Although not their prime targets, pirates do increasingly attack private yachts and cruise ships in these waters, whereby seriously wounding or even killing unarmed sailors becomes more frequent.

¹³ Munich Re (2008), *Piracy - Threat at Sea*, Münchener Rückversicherungs-Gesellschaft, Germany.

¹⁴ J. Hastings (2009), "Geographies of state failure and sophistication in maritime piracy hijackings", *Political Geography*, July.

assault rifles, AK-47 machine guns, dry explosives and RPGs to attack government and oil industry targets.¹⁵ A similar situation existed in the oil rich Indonesian province of Aceh, where the side effects of lucrative oil business in the country created comparable grievances and resistance amongst the local population against foreign oil companies and central government. The so-called Free Aceh Movement (GAM) specifically targeted Exxon Mobil, which in the past led to multiple natural gas and oil production shutdowns at the refineries in the Lhok Seumawe Industrial Zone.¹⁶

How big is the threat?

Piracy has always existed but comprehensive piracy records have only been kept for a short period of time. This makes it difficult to confidently identify clear trends over time.¹⁷ Moreover, scholars in the field of piracy point to the limitations of collecting statistics on actual and attempted piracy attacks. For example, piracy incidents often go unreported due to reasons such as intimidation by pirates, fear of reputation damage, fear of increased insurance premiums and interpretative discrepancies in the definitions of piracy. In spite of these limitations, a short-term trend analysis covering the period 2003-2009 year-to-date¹⁸ is illustrative.

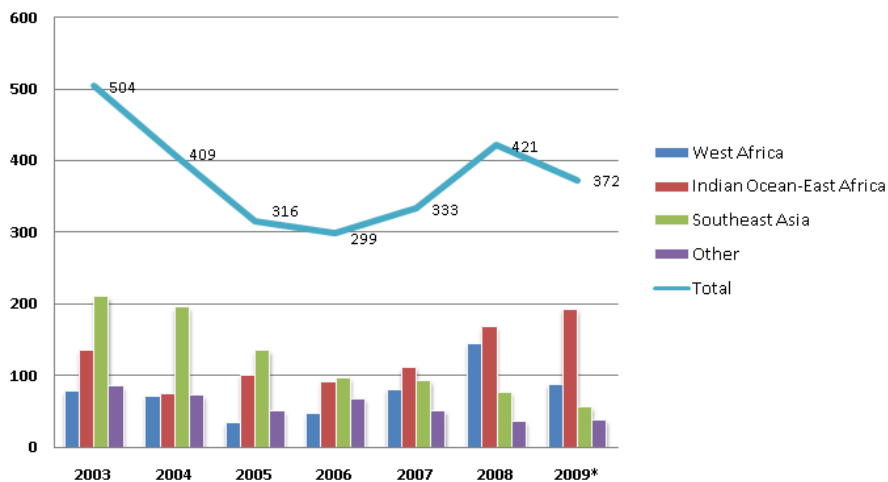
¹⁵ In their most recent attacks on platform rigs and oil pipelines, the oil production is brought down with nearly 1 million bpd, thereby triggering global oil prices upwards again (<http://www.bloomberg.com/apps/news?pid=20601102&sid=aJhJeQ.t3MDk&refer=uk>, accessed 18 September 2008).

¹⁶ Finally, as of late December 2005, the GAM and the Indonesian government reached a peace agreement, after 26 years of fighting (http://www.bbc.co.uk/worldservice/learningenglish/newsenglish/witn/2005/12/051214_aceh.shtml).

¹⁷ Piracy reports are only readily available since the 1990s, with very little recording before this period. These reports are issued on a regular basis by organisations such as the International Maritime Bureau (IMB), the International Maritime Organization (IMO), the UK's Defence Intelligence Staff (DIS) and the US National Geospatial Intelligence Agency's Anti-Shipping Activity Message database.

¹⁸ Year-to-date: 21st October 2009.

Figure 1. Number of reported piracy incidents 2003-09 (up to 21 October 2009)



Source: HCSS piracy database.

The waters off Indonesia, the Caribbean and Latin America were amongst the highest risk areas in 2003, but witnessed a significant decrease in piracy in the following years (90% and 95% respectively). The Singapore and Malacca Straits have also seen a decline in reported piracy attacks during the last few years (from 209 reported attacks in 2003 to 75 in 2008). The affected shipping companies in these areas were increasingly pressing littoral states to improve the risk situation. After the Malacca Straits were marked as very risky in 2005, shipping companies were forced to pay for this enhanced risk. To counter this additional burden, they demanded better control, more frequent patrols by the authorities and a better cooperation with neighbouring countries. Remarkably, in the years after the initiation of ReCAAP¹⁹ and the concept of the “Eye in the Sky” joint security-initiative to provide cooperative air surveillance over the Malacca Straits, piracy attacks in this region began to drop significantly. Consequently, some insurance markets, such as Lloyds of London, reversed their previous decision and deleted the region from the list of enhanced risk areas.²⁰

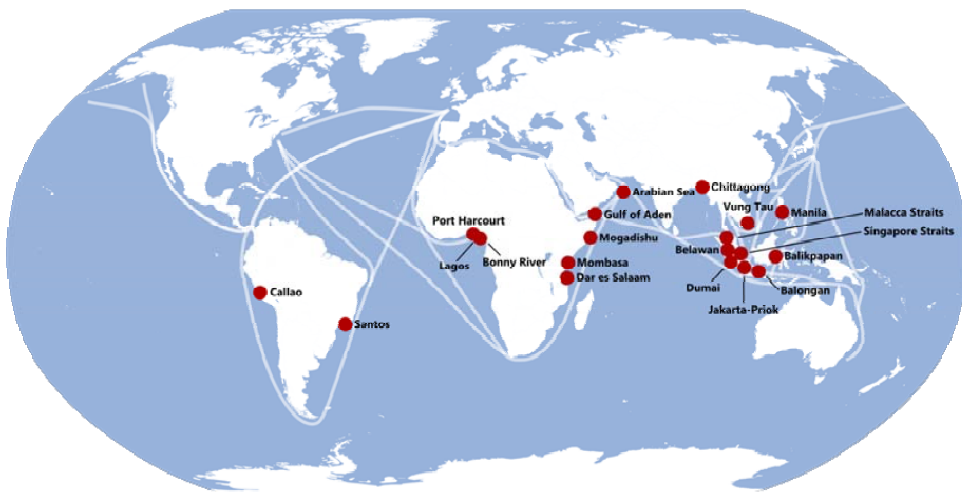
¹⁹ On September 4th 2006 the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) came into force.

²⁰ Munich Re (2008), *Piracy – Threat at Sea*, Münchener Rückversicherungsgesellschaft, Germany.

The opposite occurred in Nigerian waters (from 30 reported attacks in 2005 to over 140 in 2008) and the Horn of Africa region, where there has been a significant rise in piracy activity over the last two and a half years (a large increase of more than 220%). Somalia wasn't always a pirate safe haven, but the scourge in attacks can largely be explained by the fact that piracy is regarded as a highly profitable business. Pirates make high returns on investment, i.e. the huge ransoms paid for a hijacked ship, making this type of 'work' extremely interesting in a country where the average Somali is lucky to earn \$600 USD a year.²¹ Reported incidents in the Indian Subcontinent including India and Bangladesh, remained relatively stable, but are still responsible for a large proportion of total incidents worldwide (averaging around 45 incidents per year since 2003).

Most piracy incidents worldwide take place near fragile or failed states, where there are large ungoverned areas, weak state structures and ungoverned territories or 'black holes'. These areas include Somalia, Nigeria, the Indian Subcontinent and areas in the South China Sea. This figure illustrates the ports and anchorages with the most piracy incidents worldwide.

Figure 2. Overview of ports and anchorages with high piracy activity



Source: IMB (2008); HCSS (2009).

²¹ D. Sekulich (2009), *Terror on the Seas: True Tales of Modern-Day Pirates*, St. Martin's Press, NY, p. 148.

Recent trends

The bulk of attacks occur in West Africa and the Horn of Africa, in particular Nigeria and the Gulf of Aden. During the early months of 2009 there was a spectacular rise in piracy incidents off the coast of Somalia and Nigeria. These attacks are more violent and professionally executed. The result was increased media attention and a growing political willingness to address the problem. Despite this significant rise in the overall amount of maritime security incidents compared to 2008, we also observed a relative decline in incidents since May 2009.

Horn of Africa

The overall level of piracy has decreased in the Horn of Africa since May 2009, including in the Horn of Africa and the Indian Ocean. Still, by June 2009 the amount of actual and attempted attacks in this region had already surpassed the total number of attacks in 2008. The decline of *actual* attacks in the Horn of Africa is partly due to the presence of naval forces in the Gulf of Aden, being CTF-151, NATO's Allied Protector, the EU-NAVFOR mission or individual contributions by nation states, which have made it more difficult for pirates to actually hijack vessels. To a large degree this decline can also be attributed to the stormy weather conditions associated with the monsoon season (May until September). The high seas and rough winds caused a decrease in piracy activity along the east coast of Africa. Despite the adaptive nature of pirates' tactics, merchant vessels could take advantage of the protection offered by monsoon conditions. The likelihood of a successful attack in these conditions is considered to be low along much of the east coast of Africa, with wind speeds of SW Force 4 or above. However, this did not cause Somali pirates to quit their activities. Instead, pirate groups such as the 'Puntland' and 'Marka' groups and the 'Somali Marines' are seeking new hunting grounds in the southern Red Sea near places such as Bab el-Mandeb and in the Arabic Sea near the coast of Oman. However, the latest HCSS data indicates that after a period of relative calm, Somali piracy surged again from August 2009 onwards. In addition, they are becoming much more audacious, committing attacks as much as 900 NM offshore, around the Seychelles Islands (and even near the Maldives), farther to the south east of Somalia and in the Mozambique Channel. Attacks increasingly occurred during the hours of darkness, suggesting the need for increased vigilance of shipping vessels at any time transiting through the high-risk areas in this region.

West Africa

According to the HCSS dataset, the Gulf of Guinea is the highest risk area at the moment, in particular Nigerian waters and the Niger Delta. These attacks pose a mounting threat to international shipping and there is a growing concern over the increasing level of violence. The naval forces in West Africa are ill-equipped to protect merchant vessels – and even local fishing boats – against the violent attacks of, in particular, the militant groups MEND and the Freelance Freedom Fighters (FFF). Attacks on vessels in the Gulf of Guinea, in particular Nigerian waters, are mired in a mix of petty crime and politically-motivated violence. In the latter case, the types of pirates are better described as militants attacking ships or oil facilities as a result of local grievances. In these cases the piracy attacks resembles politically motivated piracy (or even maritime terrorism), where the economic motivations are not dominant. In an announcement in July 2009, the European Commission stated that the recent implementation of several of its projects in nine states of the Niger Delta (worth over 45 million euro) was stalled due to disruptive militant attacks.

Southeast Asia

A worrying development is the spread of MEND's militant tactics into neighbouring countries through organised criminal gangs and separatist movements in, for instance, Cameroon's Bakassi Peninsula, Angola, Benin and Equatorial Guinea. Criminals and militant groups active in these areas may have ideological or operational links to the Ijaw' militants of MEND. These groups have stepped up their activities, mounting attacks on targets affiliated with the oil and gas industry. The risks to personnel, vessels and (sub) contractors in the oil and gas industry are probably more severe than in the Horn of Africa. There is an increased awareness that as a result of the current economic crisis, low public spending and unemployment could fuel the (re)emergence of piracy hotspots in Southeast Asia. 'Old' piracy networks, as they appeared in the recent past in this region, could re-emerge in the coming months. Anecdotal evidence suggests that low-intensity incidents of maritime theft aimed at robbing engines from locals, boats and material is thriving again. However, fear exists that these criminal groups might copy successful tactics employed by pirates in Africa, thus aiming at ransacking more valuable vessels and crew. Unfortunately, the bulk of these incidents go unreported by piracy reporting centres since they mostly include attacks on (large) commercial vessels in their reports.

Other regions

Low-level incidents of piracy and armed robbery are increasing in some areas in Latin America, particularly in the waters off Peru, Colombia and Brazil. The risk of kidnap-for-ransom is slowly spreading out into neighbouring areas. For example, Colombian criminal gangs are spreading their activities into Venezuela and Ecuador. Obviously, the local drivers behind kidnapping might differ from those in, for example, Nigeria, but it is still vital to properly assess the risk to expatriates and local staff.

Drivers

We found three main drivers of piracy: *opportunity*, *capability* and *target*. These drivers are not only influenced by a combination of several underlying variables, they also mutually influence each other. It is this interplay between factors that explains the variations of piracy in place and over time.

Opportunity

Opportunities for criminals to commit acts of piracy arise from a variety of interrelated variables, including weak local government authority, particular geographical characteristics and the weak implementation of international maritime regimes or standards of state behaviour.

Piracy flourishes in areas with weak government authority. The lack of government authority often coincides with underfunded law enforcement agencies, such as police forces and coastal guards, which lack the necessary equipment and personnel to carry out their duties and are thus induced to corruption more quickly. Naval law enforcement is expensive and consists of radars, boats, command and control centres, as well as well-paid (and, therefore, less prone to corruption) personnel with knowledge of the local area. This is usually outside the budget of affected countries. Limited funding for law enforcement agencies leads to high levels of corruption, a typical characteristic of weak and fragile states. In places where government authority has ceased to exist, predation and lawlessness form the foundation for pirates to organise and engage in attacks. Such areas, which are in the dominion of failed states, are also called ungoverned territories or 'black holes'. Areas can turn into 'black holes' during military conflict (e.g., Lebanon, 1975) or after a military

conflict from which no single victory has emerged (e.g. Somalia, after 1991).²² Therefore, weak local government authority is a key determinant of piracy. It is often closely correlated with underlying factors such as bad governance, and lack of economic development. Lack of authority, capability and political will to combat and prosecute pirates can lead to a further breakdown of its already weak state structures.

Pirate attacks usually take place close to coasts or in narrow seas. The vicinity of coasts provides pirates with a safe haven to which to escape after an attack. Pirates prefer to attack vessels sailing through narrow seas, since vessels often reduce speed when transiting through such maritime chokepoints. Such chokepoints therefore provide excellent 'hunting grounds' for pirates. However, international waters also provide latitude for pirates. Shipping companies are better insured in these waters and are therefore more inclined to pay a ransom. This means that every sea lines of communication (SLOC) used for trade, logistics and naval forces could become vulnerable.

Capability

The capability of pirates to attack vessels is a function of the technology, arms and pre-established logistical infrastructure they have at their disposal. Faster vessels and more lethal weaponry allow pirates to wage attacks farther from coastlines on a wider variety of vessels. The proliferation of arms and technology after the end of the Cold War, which boosted the black arms market, has tremendously enhanced the capabilities of pirates. Where in the past pirates used knives and guns, today, according to Noel Choong, a director at the IMB, "they come equipped with AK-47s, M-16s, and rocket-propelled grenades."²³ This is leading to an increased awareness amongst policy-makers, authorities, insurers and sea farers to combat this threat.²⁴

²² R. Korteweg (2008), "Black Holes: On Terrorist Sanctuaries and Governmental Weaknesses", *Civil Wars*, Vol. 10, No. 1, March, pp. 60-71.

²³ See http://www.forbes.com/2008/06/09/piracy-logistics-shipping-biz-logistics-cx_wp_0610piracy.html.

²⁴ P. Chalk, international security analyst at RAND, <http://www.maritimesecurityagency.com/blog/?p=101>

Target

The type of target chosen by pirates depends on the opportunities and capabilities of the pirates, as well as to what extent target ships are actually 'suited' to attack. The majority of the vessels under attack are the ships above 10,000 Grosse Registered Tonnage (GRT) such as general cargo vessels, container ships, chemical and production tankers as well as oil tankers.

The extent to which ships use technology and protection against piracy varies significantly and with this the chance to fall victim to an attack. Piracy can be prevented via surveillance mechanisms and through actively detecting pirates early and fending them off with non-lethal means.

The majority of pirates are ultimately driven by profit motives.²⁵ Piracy will be around as long as there are profits to be made in the piracy business. The vast majority of piracy attacks are committed by petty thieves who often operate along clan or family lines. More professionalised organisations kidnap crews for ransom or steal the commodities transported by the vessels, and in some cases even hijack the entire vessel. They have a great and growing number of high value targets due to a massive increase in commercial maritime traffic over the years. While the value range varies significantly, it is estimated that as of 2008 pirates pocketed an average of \$10,000 per attack for a classic armed robbery attack, but it is reasonable to assume this amount has perhaps doubled in the current piracy climate.²⁶ However, the going rate for ransom payments ranges between \$600,000 USD to as much as \$5.0 million USD.²⁷ A dramatic example was the seizure of the Ukrainian ship *MV Faina* in September 2008 - carrying 33 T-72 tanks and other military equipment - for which a ransom of \$20 million USD was demanded.²⁸ Profit rather than poverty is the driver

²⁵ Some maritime security analysts dispute the existence of an ideological nexus between pirates and terrorists. Eric Frecon (2007), see http://www.recaap.org/news/pdf/news/sep07_tackle_piracy.pdf.

²⁶ P. Chalk (2008), *The Maritime Dimension of International Security - terrorism, piracy, and challenges to the United States*, Project Air Force, RAND.

²⁷ See <http://news.bbc.co.uk/2/hi/africa/7623329.stm>.

²⁸ See <http://news.bbc.co.uk/2/hi/africa/7674268.stm>. After several months of negotiations, the pirates eventually settled with a payment of around \$3.2 million.

of piracy, although poverty produces a larger pool of willing recruits. This happened in the aftermath of the Asian financial crisis of 1997-1998, for example, when severe political instability and massive unemployment induced poor workers to seek illegal means. Piracy opportunity and profitability are not only enhanced by an increase in the size of world trade transported by sea, it is also influenced by the increased willingness of companies and insurers to pay ransom for their crews and the tradability of stolen commodities.

Conclusion

To date, contemporary piracy has resulted in only temporary ceasing or re-routing shipping trade flows. However, increased costs due to piracy could act as a non-tariff barrier to trade, because the costs of using dangerous ports can be sufficiently high so that ship owners are dissuaded from shipping cargo there, which in effect creates a type of boycott.²⁹ Value losses should also include the indirect economic costs that piracy poses. This explains why as of October 2008 the European Union, followed by NATO, set up a costly anti-piracy military operation off the coast of Somalia.

However, the fight against piracy only by political means will not suffice. The need for security remains readily available for shipping companies. Seafarers themselves will have to develop initiatives for greater security. The use of 'private military companies' might be ineffective in the long run as it can reinforce the cycle of violence and endanger the safety of the crew.

In conclusion, the following factors will influence the future development of piracy:

- The number of areas characterised by weak governmental authority, with underfunded law enforcement agencies or no law enforcement agencies at all (so-called 'black holes');
- The choice of sea routes by vessels as piracy attacks predominantly take place along coasts or in narrow seas that are currently navigated by commercial vessels. Re-routing of SLOC is only likely to happen if piracy attacks keep increasing in maritime chokepoints;

²⁹ D. Dillon (2000), *Piracy in Asia: A Growing Barrier to Maritime Trade*, Heritage Foundation.

- The proliferation of modern arms and technology in enhancing the capacity of pirates;
- The extent to which organised criminal syndicates will concentrate on piracy as a source of income in the future (opposed to the present where attacks are still predominantly waged by petty thieves).
- The profitability of piracy, which is partly a function of the size of world trade and the seas as major hub of transportation of world trade (currently 80% of world trade is transported over seas);
- The willingness of a leading state or group of states to tackle piracy is crucial for the effectiveness of international regimes and their implementation;
- Protection and safety measures implemented by ports and ships; and
- The extent to which states will value traditional security concerns and hold on to traditional prerogatives – i.e. national sovereignty in territorial waters – or whether they will allow other states’ patrol vessels to enter their coastal zones to deal with the non-state threat of piracy.

Somali Based Piracy: Operations in a Legal Context

Steven Haines*

Lawyers like definitions. Indeed, they are vital, not least in criminal law. Activities are lawful when they are not proscribed; those forbidden by law are crimes. In most instances, a crime is only so if it is expressly defined as such in statute law, with perhaps a very thin dividing line between lawful behaviour and criminal activity. Tax evasion is a crime; tax avoidance is not. As a very well-known former British Chancellor of the Exchequer reputedly remarked, the only difference between the two is the thickness of a prison wall.¹ Definitions are fairly important.

Nevertheless, one of the difficulties lawyers frequently have to face is that definitions are often inadequate. Important activities either inconveniently fall outside the definition – or equally inconveniently fall within. Also problematic is the tendency for us to think we know what we mean by a word describing a particular phenomenon – until we try to define it, when difficulties (even absurdities) can arise. ‘Terrorism’ for example: we instinctively know what this is but all attempts so far to define it adequately in international law have failed. In contrast, ‘genocide’ is something that has certainly been defined but which, bizarrely, fails indisputably to include either the massacres that occurred in Cambodia under the Pol Pot regime or the humanitarian abuses that have been meted out to the people of Darfur since 2003. We must beware definitions.

‘Piracy’ is like genocide in that it is rather precisely defined in contemporary international law. Indeed, its universally agreed definition, coupled with the notion of universal jurisdiction attached to it, means that the international law relating to piracy is very easily described and *prima facie* unproblematic. Pirates have been a constant feature of the maritime

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¹ This comment is attributed to Denis (now Lord) Healy.

scene throughout modern history and piracy was the first significant activity to be regarded as a crime under international law. It was piracy that first gave rise to the notion of universal jurisdiction.

Although the law of sea piracy has developed over centuries, for our purposes today we can rely on the definition that emerged during the 20th century, from the work of the Harvard Research Group in the 1930s and the follow-on work of the International Law Commission in the 1950s, prior to the negotiations that produced the 1958 High Seas Convention.² The 1958 definition was repeated in the 1982 UN Convention on the Law of the Sea, Article 101 of which defines piracy as the:

‘committing of any of the following acts:

1. Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or private aircraft, and directed:
 - (a) On the high seas, against another ship or aircraft; or against persons or property on board such ship or aircraft;
 - (b) Against a ship, aircraft, person or property in a place outside the jurisdiction of any state;
2. Any act of voluntary participation in the operation of a ship or of an aircraft with the knowledge of facts making it a pirate ship or aircraft;
3. Any act of inciting or of intentionally facilitating an act described in sub-paragraph 1 or sub-paragraph 2 of this Article.’

In brief, piracy is committed on the high seas, involves two ships (one committing the act; the other the victim), and is intended for private gain. So we know what piracy is, but this precise definition has in the past proved problematic.

No relatively recent event has focused attention on the shortcomings of the legal definition of piracy as much as the hijacking of the Italian cruise ship, the *Achille Lauro*, in late 1985. The vessel was cruising in the eastern Mediterranean and was due to stop in both Arab and Israeli ports.

² B.H. Dubner (1980), *The Law of International Sea Piracy*, The Hague: Martinus Nijhoff, p. 3.

Embarked, masquerading as holidaymakers, was a group of Palestinian terrorists. While off the Egyptian coast, they seized the ship. During the hijacking they murdered an elderly American Jewish passenger confined to a wheelchair and threw him over the side into the waters of the Mediterranean.

This incident, played out over several days, gripped the world's media, and caused many to accuse the hijackers of piracy. In fact it was nothing of the sort. As passengers, the hijackers were mutineers not pirates. Nor were they motivated by private gain. If the hijacking had been piracy, universal jurisdiction would have applied. Since it was not, jurisdictional issues became a cause of controversy. In the wake of the hijacking, the International Maritime Bureau examined the issues³ and contributed to a process that resulted in the 1988 Convention on the Suppression of Unlawful Acts against Merchant Shipping (subsequently referred to as the SUA Convention).⁴

A further issue of consideration in the Achille Lauro case was the location of the hijacking: did it take place on the high seas or within Egyptian territorial limits? The high seas are the areas of ocean beyond the territorial jurisdiction of coastal states. Traditionally, they commenced at the generally accepted distance of three nautical miles from the coast. Since the late 1950s, however, the outer limit of territorial jurisdiction has shifted and, certainly since the coming into force of the 1982 UN Convention, is now set at 12 nautical miles from the coast. Three nautical miles is well within visible distance of the shore. Twelve nautical miles is beyond the visible horizon of an observer positioned on the beach – at sea level. Significantly, the extension of territorial jurisdiction has effectively excluded the bulk of previously piratical acts from the modern definition.

³ Shortly after the hijacking, the International Maritime Bureau convened a workshop in San Jose, California to 'brainstorm' the problem. The present author was one of the participants in that 1986 workshop, the results of which were published as: B.A.H. Parritt (ed.), *Violence at Sea*, Paris, International Chamber of Commerce, 1986. The report was submitted to the Maritime Safety Committee of the International Maritime Organization and informed the subsequent drafting of what became the 1988 SUA Convention.

⁴ Following an updating protocol of 2005, the convention is now to be referred to as the 2005 SUA Convention (Article 15(2) of the 2005 Protocol to the 1988 SUA Convention).

Most such acts are committed within 12 nautical miles of the coast and are not piracy in international law but breaches of the criminal law of the coastal state. In enforcement terms, a substantial proportion of piratical acts committed in recent years have, therefore, been the responsibility of coastal states, be they in the South China Sea, the Singapore and Malacca Straits or off the west coast of Africa.

In the past, the governments of major maritime powers, and especially those that combined significant merchant marines with navies capable of operating beyond their immediate region, have been criticised for failing to suppress piracy. In the UK, for example, questions have frequently been posed by those working in the commercial shipping sector about the Royal Navy's lack of action in the face of persistent piracy related problems. One can discern three principal reasons why governments in the past often took no significant action to suppress piratical acts prior to the onset of Somali related piracy.

The first of these falls out of the comments made above about coastal piracy. The simple fact is that, with most piratical acts occurring within territorial limits, navies of other than the relevant coastal state have been legally constrained from taking any effective action. Warships are not able to act in such ways within territorial limits without the agreement of the relevant coastal states.

Second, navies have not previously been engaged in significant counter-piracy operations because the consequences of them not being employed to suppress it have been marginal. Although many accounts of piratical action against merchant vessels include stories of violent threats and intimidation, financially piracy has not been on a scale to drive government policy, even in states with major shipping interests. The financial costs and consequences of piracy simply have not justified major naval deployments in response.

A third reason why the governments of maritime powers have not reacted to the long standing scourge of piracy, is that it has largely been out of the consciousness of members of the general public. Whether we like it or not, even in a supposed maritime nation like the UK, members of the public are not especially concerned by issues that fall well beyond them or that affect their own lives. Government priorities are frequently driven more by the needs of those who vote for those in power, than they are by real world problems beyond the borders of the state. It takes something quite extraordinary to provoke a government to take action in the face of

events occurring beyond the sight or day to day concern of those who will ultimately pay – the taxpaying voters.

The international reaction to Somali-based piracy has been motivated by a set of circumstances in which all three of the above reasons for past inaction have been absent. First, Somali pirates are operating on the high seas. Indeed, some of the vessel seizures have occurred hundreds of miles out into the Indian Ocean and Gulf of Aden, well beyond the territorial limits of coastal states in the region.⁵ From a practical, operational, point of view the offences have been well within sea areas in which navies can legitimately operate without first obtaining the agreement of coastal states. Second, the financial consequences have been substantially higher than those arising from the normal run of piratical activity. The vessels seized have included very large merchant vessels with valuable cargoes and the ransoms paid out to secure the release of the ships and their crews have often run into millions – whether GB pounds, US dollars or euro.⁶ Given the timeframes necessary to negotiate the release of vessels and crews (2 to 3 months) the costs are also significantly increased by the actual ship days lost to the shipping companies. Finally, the scale of Somali based piracy, including the seizure of several large vessels, has attracted significant international media attention in the last 12 months and this has given it a profile sufficient to warrant an international political response.

Interestingly, though, while the value of the vessels and their cargoes and the safety of crew members have prompted ransom payments in the millions of pounds, and while media attention has forced the problem onto the agendas of several governments, the consequences have not been sufficient to provoke significant action against the root cause of Somali piracy – the situation ashore in Somalia. This would involve the serious

⁵ As recently as 11 November 2009, for example, pirates hijacked a bulk carrier with 22 crewmembers onboard in a position in the Indian Ocean over 1000 nautical miles southeast of Mogadishu (information obtained from the IMB Piracy Reporting Centre, Live Piracy Report).

⁶ The Liberian registered (but Saudi owned) very large crude carrier (VLCC) Sirius Star was hijacked on 15 November 2008; it was the largest vessel to be seized to date and prompted a burst of media attention. The vessel itself was worth \$150M and had a cargo of crude oil valued at \$100M. Although the pirates originally demanded a ransom of \$25M, they were in fact only paid 3 million, some of which was lost when five hijackers drowned as their boat capsized.

prospect of intervention in Somalia itself in an attempt to stabilise the territory and establish a reasonable level of security and good governance. No major power (e.g. the US or Britain), let alone the organisations to which they belong (e.g. NATO and the European Union) – have either any desire or free capacity to engage in that way. Conveniently, however, the absence of a legal constraint on naval action in this case has provided a way for governments to at least appear to be doing something significant in response – and their navies, anxious to demonstrate their own utility in a contemporary security context that has not played to their strengths, have leapt to the fore. Anti-piracy operations have also provided the EU, keen to establish its military credentials, with an ideal opportunity so to do. It has seized that opportunity with alacrity.

It has been this arguably unique combination of legal, operational and political conditions that has resulted in the remarkable concentration of naval forces in the region. US and European naval forces have been joined by a plethora of other units from a diverse (and seemingly unlikely) range of states: Russia, Malaysia, Japan, India – even China, beginning to flex its maritime muscles. Remarkable indeed – and one senses great power opportunism here as China puts down a marker with its surging naval capacity and keen interest in increasing its influence, in Africa in particular.

The naval forces gathered in the region are organised under various task forces and are employed on three different but overlapping tasks. Combined Task Force (CTF) 151 together with Operation Atalanta (the EU operation run from Northwood in London) and Operation Open Shield (NATO) are formally constituted groupings of forces. Other vessels also operate in the region, the whole effort benefiting from a range of coordination, command and control, intelligence and information exchange arrangements. The different tasks consist of: the provision of security for World Food Programme vessels supplying Somalia; the protection of maritime traffic on passage through the Gulf of Aden; and the maintenance of a maritime presence in the Indian Ocean between Africa and the Seychelles. Despite the element of deterrent effect this gathering of naval forces is arguably providing, from an operational point of view it is extremely difficult to cover the area of ocean affected by piracy and to provide effective security for ships in transit. There are over 20,000 ship movements annually through the Gulf of Aden (GOA) alone, for example. This is far too many to convoy. The pragmatic solution to the security of their passage has been the establishment of an internationally recommended transit corridor (IRTC) that concentrates both east and west

bound vulnerable shipping in the high threat area within the hours of darkness and under the cover of naval presence. World Food Programme vessels are individually escorted. The most vulnerable vessels now are those in the Indian Ocean as far as 1,000 nautical miles from the African coast. It is impossible for naval forces to patrol that entire area and provide close cover to vessels on passage through it. The naval presence in the GOA, the effective establishment of the IRTC and the escorting of World Food Programme vessels have caused a shift in pirate activity to the more distant areas.

Despite the difficulties, we are witness to a concerted effort at sea to stem the rise in piracy in a manner fully consistent with the relevant international law. Even problems to do with the legitimate continuation of international maritime operations within the territorial waters off Somalia have been covered. Any pirate vessels being pursued on the high seas are potentially free from interdiction as soon as they enter territorial limits; there is no right of hot pursuit into territorial waters and warships are obliged to let them proceed. This requirement has, however, been waived by UN Security Council action, coupled with Somali consent to international anti-piracy operations continuing in their waters.⁷ International law 'works' to enable operations off Somalia because this particular brand of piracy fits neatly into the legal definition and Somalia itself is cooperating to allow its suppression in its waters.

But this is not the end of the legal dimension. Universal jurisdiction means that the flag state of any warship apprehending pirates can, in theory, prosecute them for their crimes. One says 'in theory' because this is easier said than done. The practical difficulties associated with the transfer of apprehended pirates into the criminal jurisdictions of the warships' flag states, including the timelines involved, are mildly problematic. There is only any point in such transfers if the apprehending state is able to bring criminal prosecutions within their jurisdictions. While universal jurisdiction exists at the international level, at the municipal, or domestic, law level its application cannot be assumed. The criminal codes of the states deploying naval forces to the region cover this issue in different

⁷ There have been seven UNSC resolutions since 2007, all passed under Chapter VII of the UN Charter: 1772(2007); 1801(2008); 1814(2008); 1816(2008); 1838(2008); 1846(2008); and 1851(2008). The last of these expires in December 2009 and it will require a further resolution to extend its provisions.

ways. Some can prosecute piracy, while others do not have the law in place to allow them to do so. There is also the vital issue of the quality and amount of evidence necessary to achieve a successful prosecution.

Interestingly, however, while much has been said about piracy and universal jurisdiction, the activities of pirates for the most part actually fall into other categories of criminally defined activity. One solution to the difficulties associated with prosecuting for piracy is, therefore, to find an alternative means of bringing criminal charges against those involved. The solution in many cases may well be to employ the 2005 Convention for the Suppression of Unlawful Acts against the safety of Maritime Navigation (SUA) rather than to prosecute for piracy as such. Fortunately, in the case of Somali piracy, all of the incidents that have occurred so far seem to be consistent with such an approach. Other international conventions of relevance and applicability include the 1979 International Convention against the Taking of Hostages and the 2000 United Nations Convention against Transnational Organized Crime. State parties to these three conventions should have enabling domestic legislation in place to give effect to their provisions. Instead of prosecuting for piracy, the obvious way to proceed is to use that legislation as a basis for prosecution.

In relation to jurisdiction, there are essentially four prosecution options. The first is for apprehending warships to transfer those charged with piracy to courts in their own state. Some have indeed done this, with pirates finding themselves in Europe and the US for prosecution. A second option is to land pirates to Somalia and Puntland for prosecution – the territory from which they operate. Given the political and administrative circumstances ashore there, this has not been a seriously likely option so far. A third option is to land those apprehended to another state in the region for prosecution. This is the most strongly favoured option and agreements were reached in late 2008 and early 2009 to transfer detainees to Kenyan jurisdiction for process. Although convenient, this is not ideal, and Kenya has not yet proved to be an efficient solution to the problem. A final option might be to set up a special court in the region to prosecute pirates. While this might sound an appropriate way forward, it is not favoured by the interested parties to date. Apart from the fact that it is not necessary, the creation of another international tribunal for this specific purpose would most likely prove to be an expensive and overly bureaucratic solution. The already established International Criminal Court (ICC) is not an option because the crime of piracy does not fall within its jurisdiction and it is most unlikely that the Rome Statute of the Court could

now be modified to include it without extensive re-negotiation. For the moment, therefore, the Kenyan option is the most attractive.

Somali piracy hit the world's headlines in late 2008 in particular, largely as a result of the seizure of the *Sirius Star*, a VLCC with a full cargo of crude oil. This seizure acted as a catalyst for what followed. A substantial naval presence in the region is dealing as far as it can with the problem in a legal situation that, while to a degree problematic at the level of prosecution, is by no means acting as a serious constraint. The operations currently being conducted are, however, focusing on the symptom of piracy without dealing to any significant degree with its underlying cause. This is, undoubtedly, the situation within Somalia itself. Until that is dealt with, the problem is unlikely to go away.

Somali Terrorism and Piracy (A 'lesser-included case')

Jonathan Stevenson*

The chronic governance and security problems in Somalia began in 1991, when strongman President Mohammed Siad Barre was overthrown in a civil war. Competing clans then commandeered weapons supplied to his government, alternately by the Soviets and the Americans during the Cold War, and the country devolved into a Darwinian patchwork of armed clan fiefdoms with no central authority. Then came a famine that an ineffectual United Nations mission was unable to address, prompting the United States to lead an international military intervention in December 1992, with the relatively narrow intention of facilitating humanitarian relief, though in the grander service of a “new world order.”¹

In bootstrapping a humanitarian mission into coercive peace enforcement, however, the US angered Somali clan militias. Their fury culminated in the infamous October 1993 “Black Hawk Down” confrontation in which 18 US Army Rangers and hundreds of Somalis died.² This disaster spurred a hurried American withdrawal, stoked anti-Americanism, and strengthened al-Qaeda’s hand in East Africa. Osama bin Laden and second-in-command Ayman al-Zawahiri have cast the US as a “paper tiger” with no staying power, and their favourite examples include American pullouts from Lebanon after Hezbollah’s 1983 barracks bombing and from Somalia after “Black Hawk Down.”

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¹ See John L. Hirsch & Robert Oakley (1995), *Somalia and Operation Restore Hope: Reflections on Peacemaking and Peacekeeping*, Washington, D.C.: United States Institute of Peace Press; Jonathan Stevenson (1995), *Losing Mogadishu: Testing US Policy in Somalia*, Annapolis, MD: US Naval Institute Press.

² See Mark Bowden (1999), *Black Hawk Down: A Story of Modern War*, New York: Atlantic Monthly Press.

Threat perceptions and realities

Since 1991, some 14 governments formed in exile have tried and failed to govern, though the latest one – the Transitional Federal Government (TFG) – remains intact. From the mid-1990s, Somalia has been viewed as a potential exporter of Islamist terrorism. Western threat perceptions have been high since the 11 September attacks, and especially since the defeat of the Taliban in Afghanistan in late 2001. The standing fear has been that al-Qaeda holdouts fleeing Central Asia would reconstitute their operational base in weak states in the Gulf or sub-Saharan Africa. Pakistan's utility as an alternative base for al-Qaeda moderated these fears, but recent counter-terrorism successes there have revived them. Yemen is the leading candidate for such jihadist migration. Somalia, however, appears to be a fairly close second given its homogeneous Sunni Muslim population, absence of state enforcement mechanisms, incrementally rising militant Islamism and proximity to the Persian Gulf.³

Islamist elements in Somalia have helped propagate terrorism. The explosives used in the December 2002 attack on Israeli tourists in Mombasa, Kenya probably came from Somalia, and perpetrators of that attack and the nearly simultaneous attempted shoot-down of an Israeli airliner leaving Mombasa used Somalia as a bolt-hole. A number of Somalis reportedly went to Lebanon to help Hizbullah battle Israeli forces in the 2006 'summer war' in exchange for military training. The Somali diaspora is large and widespread, and repatriates up to \$700 million a year through hard-to-monitor *hawala* remittance vehicles. Thus, the diaspora is a potential terrorist support network and recruiting pool, especially if their host nations and allies are seen as harming their country and countrymen.

The al-Qaeda-linked militant Somali Islamist group al-Shabaab ("the youth") has transnational ambitions, aiming to create a fundamentalist Islamist state across the Horn of Africa. The group's core leadership sprang from a nucleus of hardline Somali militants working with al-Ittihaad al-Islamia (AIAI) – a Somalia-based group headed by Sheik Hassan Dahir Aweys that provided protection and support (e.g., training camps) for al-Qaeda's East Africa cell, but was decimated as a result of popular hostility and, reportedly, raids by Ethiopian troops in the mid- to late 1990s. Al-

³ See Eric Schmitt and David E. Sanger (2009), "Some in Qaeda Leave Pakistan for Somalia and Yemen, *New York Times*, 11 June.

Shabaab eventually broke from the AIAI leadership, began ‘manhunting’ operations against secular warlords supporting Western counterterrorism efforts, and targeted international aid workers and peace activists. The organisation, though relatively flat with loose command-and-control, then became the elite fighting force of the ICU, and now constitutes the main element of the anti-TFG insurgency. To this point, the group's most devastating attacks occurred in the relatively peaceful northern areas of Somaliland and Puntland in October 2008. Five coordinated explosions at local government offices, a UN compound, and the Ethiopian consulate reflected considerable sophistication and reach. As of late 2008, al-Shabaab was the dominant political entity in southern Somalia, imposing an especially intolerant version of sharia as well as using sheer force.⁴

Al-Shabaab's recruiting reach extends to the Somali diaspora in North America, Europe, and Australia. Shirwa Ahmed, one of about 20 ethnic Somalis recruited from the US and trained by al-Shabaab in Somalia, perpetrated the first terrorist suicide attack by an American in one of the October 2008 operations in Somaliland.⁵ In November 2009, the US Attorney's office in Minneapolis announced that 14 Somali-Americans had been indicted on federal terrorism-related charges. The other major armed Islamist group is Hizbul Islam, which is headed by Aweys, maintains a more geographically confined nationalistic focus, and is considered by many to be primarily Aweys' vehicle for his eventual leadership of an Islamic Somali state. Eritrea has supported and continues to support Somali Islamists as proxies against its arch-enemy Ethiopia, with an eye to bogging it down in Somalia. Al-Shabaab and Hizbul Islam have provided training camps for al-Qaeda as well as a safe haven for a number of its higher-ranking East Africa operatives. Two of them – Abu Talha al-Sudani by the Ethiopians in 2007 and Saleh Ali Saleh Nabhan by US special-operations forces this past September – have been killed in Somalia. Yet despite their synergistic political and operational relationship, al-Shabaab has not formally merged with al-Qaeda, and has been compromised by internal

⁴ See A. Le Sage (2009), “Militias and Insurgency in Somalia”, *Policy Watch*, No. 1593, Washington Institute for Near East Policy, 26 October (www.washingtoninstitute.org/templateC05.php?CID=3131).

⁵ See J. Straziuso & A. O. Selsky (2009), “Somali Training Camps Fuel Threat of Attacks on US”, *Associated Press*, 29 November.

personal and political rivalries. Thus, Somalia has not, so far, ripened into a fully-fledged global terrorist threat.⁶

The pirate factor

While jihadism in Somalia has been contained, Somali piracy has increased Somalia's threat to international security. Over the last two years Somali pirates, estimated to number over 1,000 and gaining recruits, enabled by the absence of the rule of law on the ground, have staged increasingly frequent and brazen attacks on commercial vessels transporting vital cargo such as oil, food and weapons in the Indian Ocean and the Gulf of Aden. They pose at least a strategic nuisance. US Navy maritime surface and air assets assigned to US Central Command and constituting the main elements of Combined Task Force 151, patrolling the Gulf of Aden and the Indian Ocean, have conducted anti-piracy operations in coordination with NATO's Operation Open Shield, the European Union's Operation Atalanta, and navies of other nations (including China, India, Japan, Malaysia, Turkey, and Russia) commercially affected by Somali piracy. Despite several dramatic and successful interdictions - in spring 2009, for instance, the US Navy rescued the captain of the US-flagged *Maersk Alabama*, killing three of the Somali pirates holding him hostage - even modern blue-water navies cannot identify and target all of the small pirate vessels operating in vast expanses of water. Thus, the deterrent effect of this surge has been ambiguous at best.

Up until October 2009, Somali pirate attacks numbered 178 - more than the total of 111 for all of 2008. Their boldness and geographical adaptability do not appear to have subsided. Earlier this month, they used rocket-propelled grenades and automatic weapons to attempt to capture a Hong Kong-flagged oil tanker 400 nautical miles northeast of the Seychelles Islands - the farthest out they are known to have operated. An EU spotter plane was sent to find the pirates, but its efforts were unavailing.

The United States' recent addition of Seychelles-based high-altitude, high-speed *Reaper* drone - with a 14-hour-plus loitering capability and a range of 3,000 nautical miles - will increase the surveillance coverage of the

⁶ See A. Le Sage (2009), "Peacebuilding and Terrorism: Fragile Gains in Somalia", *Policy Watch*, No. 1594, Washington Institute for Near East Policy, 27 October 2009 (www.washingtoninstitute.org/templateC05.php?CID=3132).

counter-piracy effort.⁷ But most naval commanders do not consider the containment of the piracy problem a central military task, seeing it as a distraction from core counter-terrorism, counter-proliferation, deterrence, and war fighting missions, and in any case difficult to accomplish in practice. While Somali piracy has made a non-trivial impact on maritime trade between East Africa and Asia, and could affect strategic cargos like oil and weapons, to a significant extent the international community has thus far relied on the private sector – through better security training for crews, shipboard countermeasures, and higher insurance rates – to regulate rather than eliminate the phenomenon. Accordingly, Somali piracy may not appreciably diminish until Somalia’s ground-based security problems are improved.

Major-power calculations

In light of external actors’ political and military futility in dealing with Somalia, the US State Department’s Bureau of African Affairs, according to an internal report circulated in August 2009, rates Somalia “the hottest of many policy fires burning” in Africa. The demands of Afghanistan, Iraq and Iran, as well as arguably more urgent needs within Africa in Sudan and the Democratic Republic of Congo, will divert the major powers’ attention from Somalia and make supporting a major United Nations or African Union peacekeeping effort prohibitively difficult. But bringing greater order and control to the Somali polity is a high regional priority on account of its potential as a jihadist safe haven and operational base, as well as the impact that burgeoning Somali piracy is having on global commerce.

Given Islamist terrorists’ effective use of maritime operations in the November 2008 Mumbai attacks and the prevalence of sea transport – licit and illicit – of military hardware and WMD-related technology by sea, possible synergies between Islamist terrorists and pirates also need to be considered. The threat appears to be real, as there are extant tactical relationships between pirates and Islamist militants. At the same time, these links appear to be essentially mercenary rather than political or ideological. Furthermore, piracy has flourished mainly in the less unruly northern part of Somalia – especially self-proclaimed, secularly run

⁷ See Jason Straziuso (2009), “US Drones Protecting Ships from Somali Pirates”, *Associated Press*, 23 October.

Puntland, on the Horn – and not in the anarchical south that al-Shabaab dominates.⁸ Accordingly, Somali piracy is hardly of a piece with Somali jihadist terrorism, and consequently is unlikely to attract as much durable strategic attention from major powers as Somalia's ground-based problems in any case. Rather, they will tend to treat piracy as a 'lesser-included case' of anarchy-driven insecurity.

A narrow counter-terrorism approach to that insecurity, consisting of military containment plus covert support to pro-Western Somali groups and regional powers, has not worked.⁹ Ethiopia's expeditious US-backed suppression in 2006-07 of the grassroots Islamic Courts Union (ICU), which held sway in Somalia for six months, and support of the internationally recognised TFG damped down the terrorist threat in the short term. But in early 2009 Ethiopia substantially withdrew its forces, which had alienated and enraged Somalis through brutal tactics. US targeted killing strikes from AC-130 gunships and Navy vessels that produced civilian casualties, though undeniable short-term operational blows to jihadism in the region, have tended to intensify anti-American attitudes and terrorist impulses among Somalis in the longer term.¹⁰

Seemingly in direct relation to various forms of Western intervention, Islamist militants in Somalia have grown in number, probably by an order of magnitude, and resurged accordingly. Loosely estimated at between 5,000 and 10,000, they now control most of the territory in southern Somalia, though TFG and the AU-sponsored African Mission in Somalia (AMISOM) forces have managed to keep the capital city, Mogadishu, out of their hands. In summer 2009, Ethiopia dispatched perhaps hundreds of

⁸ See Bronwyn Bruton (2009), "In the Quicksands of Somalia", *Foreign Affairs*, Vol. 88, No. 6, November/December, pp. 82-83.

⁹ See Bruton, "In the Quicksands of Somalia", Jonathan Stevenson (2007), "The Somali Model?", *The National Interest*, No. 90, July/August. For an early warning that the Ethiopian invasion and occupation would produce perverse results, see Jonathan Stevenson (2007), "A Fleeting Victory in Somalia", *New York Times*, 8 January.

¹⁰ See Jonathan Stevenson (2008), "To Do: Somalia", *The New Republic* (web edition), 21 November; Jonathan Stevenson (2007), "Risks and Opportunities in Somalia", *Survival*, Vol. 49, No. 2, summer, pp. 5-20. See also Ken Menkhaus & Karin von Hippel (2008), "Republic of Blowback", *International Herald Tribune*, 4 September.

troops, reportedly with tacit US approval, to thwart Islamist takeovers of Somali towns near the Ethiopian border – in particular, Beledweyne, which in August 2009 had been overrun by militiamen of Hizbul Islam – but denied any intent to re-occupy the country.

Somalia still epitomises the failed state. The TFG has not collected taxes or provided effective social services, established a sound civilian law enforcement organisation enjoying anything like a monopoly on the use of force, or been able to make collective decisions for the populace. Without substantial political advances, even at its full strength of 8,000 troops, AMISOM forces would have no realistic chance of controlling a factionalised, heavily armed, Somali population. The current deployment, about 5,000 Ugandan and Burundian soldiers, has improved its efforts to protect the TFG and in September 2009 was given a more muscular mandate for peace enforcement, but it remains too small and under-equipped to be truly effective.

The UN, the United States, the EU, the International Contact Group on Somalia,* and Djibouti have worked hard – though inconspicuously – to facilitate two changes in the TFG. In January 2009, the TFG parliament was expanded from 275 to 550 members to realise more equitable clan representation and, crucially, to accommodate moderate Islamist parties. Less than a week after the parliamentary reform was approved, Sharif Sheik Ahmed – a relatively moderate Islamist – won the January 2009 presidential election. As a member of one of the two critical Hawiye subclans that dominate Mogadishu, he stands a chance of resolving conflicts with the other, and appears willing to try. Furthermore, Sheik Sharif, former head of the ICU, has substantial credibility with the Islamic community.¹¹

Which is the most plausible pathway to political rehabilitation, however, is still unclear. The intuitively attractive ‘building block’ approach – whereby self-declared Somali entities (Somaliland in the north,

* The United States, the United Kingdom, Sweden, Italy, Kenya, Tanzania, Egypt, Yemen, Canada, Norway, the UN (including SRSG/UNPOS, UNDP, UNICEF, OCHA), the EU (including the presidency, European Commission, Council Secretariat), the AU, the Inter-Governmental Authority on Development (IGAD), and the League of Arab States.

¹¹ See Jeffrey Gettleman (2009), “In Long-Riven Somalia, a Leader is Raising Hopes for Stability”, *New York Times*, 17 September.

Puntland in the central region) are politically and economically induced to improve governance and then confederate – seems utopian. It is very unlikely that any governable entities to the south, encompassing Mogadishu and Kismayu, where al-Shabaab is based, would coalesce. Politically recognising Somali statelets could set a troublesome international precedent. A unitary state would square with the preferences of the UN, the US, and Europe, as well as the ‘one Somalia’ policy of neighbouring countries like Djibouti and Kenya, which regard a unified Somalia as the natural geopolitical balancer against Ethiopia and as less susceptible to destabilising mischief by Eritrea, the local geopolitical spoiler.

The US and other external actors appear to be adopting a less bold but more realistic approach. Sheik Sharif is being given time to consolidate his presidential authority, if necessary by using force against rival militias in the south. The idea is that if he is able to marginalise them, bring relative order to southern Somalia, and perhaps even pull together a national multi-clan militia, Somaliland and Puntland may warm to reconstituting a unitary state from the top down. Limited operational and tactical engagement by US and coalition partners – for instance, on counter-piracy matters – with Somaliland and Puntland, would tacitly acknowledge their status as functionally discrete political entities and perhaps encourage their leaders to compromise and reconcile. With this sort of remedy, anti-piracy and conflict-resolution efforts would converge.

The idea may be gaining traction. In October 2009, the Norwegian Institute for Urban and Regional Research (NBIR) published a 71-page report entitled “Piracy in the Greater Gulf of Aden: Myths, Misconception and Remedies” arguing that helping cooperative groups with some local legitimacy and power could be more effective. These would include the Puntland authorities and the central Somalia-based Sufi militia Ahlu Sunna wal Jamaa, which opposes the radical and militant interpretations of Islam espoused by al-Qaeda and al-Shabaab. Noting that the international naval coalition “is simply too small to cover the whole area” affected by piracy, “lacked any mechanism to address the onshore causes of piracy,” and offered Somalis themselves no ownership of the anti-piracy campaign, the NBIR recommended paying and training existing forces to fight piracy, establishing a separate Somali entity with a good measure of operational autonomy, or hiring private military companies to interdict piracy on-shore

instead of offshore.¹² An even more ambitious EU plan was mooted in April. In Djibouti, where both France and the US have military ground presences, the French army would train a small corps of about 500 Somalis, which would in turn train 5,000 more Somalis (perhaps drawn substantially from the Puntland authorities and Ahlu Sunna wal Jamaa) to function as an official 'coast guard' – part of a larger, 15,000-strong EU-trained and funded Somali security apparatus – to fight and deter pirates on land. The German government supported the plan in principle, but also voiced understandable worries that EU money and weapons might wind up in the hands of pirate or other destabilising groups, and that the trainees themselves could join such groups.¹³

Prospects

While policy-makers in Washington and Europe appear increasingly aware of the inadequacy of the putative narrow counter-terrorism approach, they are also sceptical of any full-blown state-building efforts that might complement or replace it. The fluid and fragile nature of Somali alliances, and the tenuousness of public support for Islamist and secular groups alike, have also suggested that inflexibly backing one faction could ultimately prove fruitless. Indeed, the expanded Somali parliament, while structurally more equitable, may prove too unwieldy to make a substantive difference.

Nevertheless, the US, UN, EU, regional multilateral organisations, and regional powers will probably continue to diplomatically support the reconstituted TFG, as Secretary of State Hillary Clinton pledged to Sheik Sharif when she met him in Kenya during her August visit, and especially to endorse any of its efforts to defeat or co-opt al-Shabaab. Most of those who have joined jihadist militias have done so for practical rather than ideological reasons. Further, al-Shabaab's popular support is fragile owing to its imposition of harsh vice laws. And Somalis in general are more nationalistic (at times, xenophobic) than Islamist, and therefore are not

¹² Jean-Marc Mojon (2009), "Support Local Somali Structures to Curb Piracy", *Middle East Online*, 22 October (www.middle-east-online.com/english/somalia/?id=35174).

¹³ "Germany Doubtful of French Plan to Train Somali Troops", *Der Spiegel* (web edition), 25 May 2009 (www.spiegel.de/international/world/0,1518,626667,00.html).

likely to stay well-disposed towards any al-Qaeda connections maintained by the Somali Islamist militias. Substantially weakening them therefore may be doable. To encourage non-violent political participation and drive a wedge between al-Qaeda and the Somali Islamist groups, the US may consider removing groups like Hizbul Islam and eventually even the more intransigent al-Shabaab, or certain individual members, from its official lists of terrorist organisations and suspects. It appears possible that Aweys could be amenable to breaking Hizbul Islam's ties to al-Shabaab in favour of a power-sharing deal with the TFG.

To avoid broader Somali hostility, counter-terrorism tactics could also be altered to minimise collateral damage, as in the American operation in which Nabhan was killed, which involved a helicopter assault that allowed for more selective targeting. While his death undoubtedly disrupted al-Shabaab's and al-Qaeda's regional planning, recruitment, and training capabilities in the short run, the downside is that the al-Qaeda leadership void could prompt al-Shabaab and the East Africa cell to move forward with a merger and form a more tightly run and potentially more dangerous operation. If that or other factors impelled al-Shabaab to increase pressure on the TFG, reinforcing Ugandan and Burundian AMISOM troops could be necessary to ensure their continued commitment to supporting the TFG.

Piracy and rising Islamist militancy have intensified US and European diplomatic interest in Somalia. At the same time, initial African perceptions that the establishment of US Africa Command (AFRICOM) signalled the 'militarisation' of US Africa policy, reinforced by the growing likelihood that the 2,300-strong Combined Joint Task Force-Horn of Africa (CJTF-HOA) in Djibouti would become a long-term American base, have posed a strategic communications challenge for the United States.¹⁴ In addition, a deteriorating humanitarian situation in drought-plagued Somalia precipitated by the October 2009 US suspension of food aid over fears that aid workers were diverting it to terrorists, and the prospect of unmanageable numbers of Somali refugees fleeing over comparatively stable Kenya's border, have increased pressure on Washington to revise US policy. These factors could lead to a new approach – consonant with the evolving emphasis on nuanced counter-insurgency – involving the application of soft power, such as development aid, with less scrutiny on

¹⁴ See Jonathan Stevenson (2009), "Closing Argument: African-American", *Survival*, Vol. 51, No. 1, February-March, pp. 249-56.

governance.¹⁵ Robust, high-profile international diplomatic or military initiatives in Somalia, however, are unlikely. It follows that near-term developments in Somalia will probably follow the depressingly familiar pattern whereby the TFG and Islamist militias maintain an uneasy military stalemate, with neither building the political infrastructure and good will required to tip the balance decisively.

¹⁵ See Bruton, "In the Quicksands of Somalia", *op. cit.*

THE POLITICAL FUTURE OF AFGHANISTAN

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Afghanistan: The Day After

Radha Kumar*

Since the Obama administration set 2011 as the date for withdrawal from Afghanistan, speculation has been rife on whether and how the deadline will be met. Although this date is actually fuzzy – it is doubtful whether 2011 will see even the beginning of an American drawdown – it has focused attention on the critical issues for stabilisation in Afghanistan that have remained unaddressed over the past nine years.

The key goals today include

- bringing on board the Taliban of eastern and southern Afghanistan in a peace and stabilisation process,
- rolling back the spread of the Taliban in central and northern Afghanistan,
- creating a legitimate and functioning administration, and
- ensuring regional support and guarantees for a stable and peaceful Afghanistan.

Few if any of these goals can be achieved in a year. What 2010–11 is more likely to reveal, therefore, is the extent of international commitment to these goals. Does the international community have the political will to pursue these goals until they are achieved? What would each entail? The following sections seek to explore these questions further.

Bringing on board the Taliban in a peace and stabilisation process

Whether 2011 will see an American drawdown or not depends largely on the degree of success of the ‘reconciliation’ policies of the US, Afghan, UK and Pakistan governments, which are still in development and are not necessarily the same.

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Indeed, the fallout over the arrest (and rumoured release?) of Mullah Abdul Ghani Baradar indicates that sometimes the reconciliation policies of these governments can be at odds. From scattered reports it appears that Mullah Baradar, a senior Taliban leader and second in command of the Quetta *shura*, was a key figure in the back-channel talks between President Hamid Karzai's government and the Taliban that were being held under Saudi aegis.

The back-channel talks of the Karzai government were supposed to be complementary to the surge policy of the Obama administration, which combined military attack with a buyout strategy seeking to win over foot soldiers and local/mid-level commanders. President Karzai had made reconciliation with the Taliban a campaign plank and his first policy commitment after re-election. In the last six months of 2009, he issued a series of invitations to the Taliban for talks; at his request the Saudi government arranged a number of meetings between his representatives and high-level go-betweens for Taliban leaders based in Pakistan.

In effect, a three-pronged strategy emerged - the Afghan government was to head attempts to negotiate with the Taliban leaders, while the international community would back buyout initiatives (targeting foot soldiers and mid-level commanders) with funds, and the US would back both prongs with military pressure to bring the Taliban into the negotiations. There appeared to be a dawning consensus on this approach; at the London conference in January 2010, attempts to harmonise the range of international policies towards Afghanistan led to bottom-line support for the Afghan-US policy of seeking to win over foot soldiers and local/mid-level commanders.

Although the Taliban leaders based in Pakistan rubbished Karzai's offers, they also put out their own feelers, through, for example, statements pledging that if in power they would not let Afghanistan be used for terrorist attacks on other countries. Mullah Baradar's arrest more or less brought these initiatives to a halt and neutralised a major prong of the reconciliation strategy. It is seen in Afghanistan as a Pakistani coup brought about to reassert Pakistani control over any reconciliation process. Whether this suspicion is true or false, the arrest has certainly brought Pakistan back to the centre - any negotiations with the Taliban will have to be with Pakistan's concurrence, if not through Pakistan.

The immediate fallout is that the Afghan government has been further weakened. President Karzai is now, more than ever before, dependent on Pakistan to pursue reconciliation with the Taliban. As a

result, the international effort to 'Afghanise' the reconciliation is at risk of failing.

Back to basics – The question of Pakistan's role

Only the wilfully blind would deny that Pakistan has a central role to play in the stabilisation of Afghanistan. But it would be severely myopic to believe that such a role is easy to define, let alone achieve. In the past few years influential analysts have suggested a 'grand bargain' in which Afghanistan would be in Pakistan's sphere of influence, with international acquiescence, and in return Pakistan would persuade the Taliban to accept and perhaps join the Afghan government. More recently, some Pakistani policy analysts have suggested a different kind of grand bargain, one in which the Taliban leadership could enter a power-sharing government in Afghanistan, with a contact group to monitor security that would comprise all of Afghanistan's neighbours, including closely connected but not border-sharing India.

While an arrangement of this sort could act as a reassurance to neighbours, it begs the critical questions of consensus within Afghanistan, and also, significantly, within Pakistan. Not only are Pakistanis polarised over their Afghanistan policy, but also Pakistan itself is in a state of considerable instability. Most policy prescriptions rest on the assumption that Pakistan is a relatively stable and consistent actor. Prior to 9/11 it might have been possible to assume that the Pakistan army was a stable actor (unlike its political parties and administration), but that assumption does not hold today even for the army. US-influenced attempts to purge radical Islamists from Pakistan's security establishment have left a seriously divided force that unites only in a spoiler role – for strategic depth in Afghanistan, against the enemy India. The implications of this division-unity problem for an Afghan reconciliation policy are grave.

Reconciliation also has internal implications for Pakistan. A policy that strengthens the Taliban will embolden them and associated groups that destabilise the Pakistani state. In Swat, remnants of the Taliban have already come out of hiding. The Afghan/Pakistani Taliban distinction is one that many Pakistani analysts reject, but the fact remains that reconciliation might also have to include those who are termed the Pakistani Taliban. Obviously, this would entail an expanded reconciliation policy, covering the regions of the Federally Administered Tribal Areas (FATA) and the North-West Frontier Province (NWFP) of Pakistan. With a bitter history of failed peace agreements in Swat and Waziristan, it is not

clear whether Pakistani civil society (which ardently backed military operations against the Taliban) or mainstream, regional political parties such as the Awami National Party (which have been the chief targets of the Pakistani Taliban) will support reconciliation with groups they have come to regard as existential foes.

Today it appears that there is a very clear divide in Pakistan's policy community, between those who back the strategic approach and those who seek a political approach. This divide is at its clearest when it comes to analysis of the role of the peace *jirga(s)* [large assembly]. Pakistani policy analysts who were involved in back-channel efforts with the Taliban in the early years following 9/11 argue that an important opportunity to involve the Taliban leadership was missed in 2002–03, when the Grand Loya Jirga was convened, and Pakistan had worked hard behind the scenes to get the Taliban on board. They suggest that another such opportunity could be created now.

Other Pakistani analysts caution that a focus on the grand peace *jirga* should not lose sight of the district-by-district plan for reconciliation, and suggest that local peace *jirgas* that complement the local-level buyout strategy are essential building blocks to reconciliation. Theoretically, these could complement the all-Afghan peace *jirga*, which would gain both substance and input from the ground; still, much would depend on how widely they can be organised.

While a segment of the Pakistani government believes that their cooperation with the reconciliation policy should be tied to an exclusion or further restriction of India's role, there is a much greater acceptance among influential Pakistani civilians of India's presence in Afghanistan. As initiatives for regional consensus building grow, the trick is going to be how to give the yea-sayers a larger public voice than the nay-sayers.

Potential hitches to the reconciliation policy

Whether Afghan society is prepared for a grand bargain with Taliban leaders is unclear. Most Afghans, including parliamentarians, would support the rehabilitation and reintegration of lower-level Taliban; but the jury is still out when it comes to figures like Sirajuddin Haqqani or even Mullah Mohammed Omar. The reintegration of former mujahidin commander Gulbuddin Hekmatyar is an example of how it can work – today his Hezb-e-Islami is the premier party in Afghanistan, with a number of members in parliament.

But there is also a sizable Afghan constituency that wants a professional rather than power-sharing government, with the past as a closed chapter. This constituency also supports reconciliation; however, they argue that reconciliation has to be broad-based and political conciliation is as important as reconciliation with the Taliban. And they point out that there could be a potentially negative impact for the reconciliation policy, in that Afghan disaffection with poor governance will increase if power-sharing entails an increase of warlords in power.

Managing these two divergent trends will be a challenge for the reconciliation policy. The current pledge to focus on good governance is one way to do so, although it is a formidable task given that corruption and accountability are not within the sole control of the Afghanistan government and would require coordinated efforts from all donors and investors.

Good governance is in any case a chimera when it comes to societies that have been deeply fragmented as a result of protracted conflict. The Karzai government was weak from the start and has been further weakened by a chaotic and oscillating set of international policies that have made the government more dependent on warlords rather than less. It may be that governance issues are on a back burner while the focus is on improving security through reconciliation. But as the Marjah situation indicates, governance and security have a symbiotic relationship. This is something the Taliban have grasped – witness the recent spate of killings of mayors and their deputies in the provinces.

Regional actors

There is also the question of how other influential players – neighbours, regional allies or powers – relate to the reconciliation policy. Its success requires support from other regional actors, in particular Russia, India and Iran, who were opponents of the Taliban during their years of rule.

Iran has made its opposition to reconciliation clear by staying away from the London conference, but it did attend the Turkish conference. The Iranian government has apparently sought its own buyout strategy with the Taliban in Afghanistan, but that might only be protection money. There is still no evident interlocutor with Iran on Afghanistan, which means Iran's response is still difficult to predict. Russia and China are currently playing a watching game. Most of the other neighbours feel relatively powerless.

Yet for reconciliation to work, Russia, India and Iran need to be on board, which means they need to participate in regional efforts at consensus building. In this context, Turkey made a serious mistake in excluding India from the January 2010 regional conference that it hosted on the stabilisation of Afghanistan.

Turkey's action did not take place in a vacuum. The failure to conclude a new Afghanistan-Pakistan Transit Trade Agreement by the end of December 2009, the fact that it was Pakistan's opposition that led Turkey to exclude India and the terrorist attacks on Indians by the Pakistan based Lashkar-e-Taiba in India and Afghanistan in January and February have combined to give Pakistan's competition with India the edge over cooperation. These events would appear to be a further setback to the prospects for Indian-Pakistani support or cooperation for facilitating peace in Afghanistan.

At the same time, these developments also underline how critical India and Pakistan's joint support is – without which, it seems, Afghanistan's stabilisation will continue to be impeded. Is there anything that can be done to ease this pressure on Afghanistan's already overburdened and as yet still-nascent peace process?

Once again, international policy is at odds on the issue. The Obama administration has moved a step further than the Bush administration in welcoming India's role in Afghan reconstruction and development, and is now exploring ways in which the two countries can cooperate. The few European countries that are deeply engaged in Afghanistan appear not to have discussed the issue among themselves, let alone with Afghans, Pakistanis and Indians. This author was rather startled to see references to India as a 'spoiler' in another paper on this topic¹ – as far as Afghans are concerned such a description could not be further from the truth. India remains the most popular foreign country in Afghan polls and is well regarded at the local level even in Taliban areas.

The Afghan government and civil society are also committed to improving relations between the three countries; indeed, the importance of this issue for Afghanistan was evident when both the frontrunners for the

¹ See Fabrice Pothier, "Afghanistan: Shifting from a state of war to a political state" in R. Walliullah, F. Pothier and R. Kumar, *The Political Future of Afghanistan*, European Security Forum Working Paper No. 34, CEPS, Brussels, 2010.

presidential election made peacemaking between their country, Pakistan and India a campaign plank. As President Karzai stated at his second-term inauguration, India and Pakistan are among his top foreign-relations priorities in this presidential term. Afghans from all sectors are united on this issue – they do not want to have to choose between India and Pakistan.

India's options

After Afghanistan itself and Pakistan, of all countries, India's security is most closely threatened by what happens in Afghanistan. With terrorist attacks on Indian civilians in Afghanistan (the latest by the Taliban in February 2010) and news now coming out that the 2008 Mumbai attacks were partly planned and organised there, India has major concerns about any return of the Taliban.

At the beginning of 2009, most Indian policy-makers and analysts would have been opposed to any deal with the Taliban; today there is support for a reconciliation policy targeting foot soldiers and field commanders, as the Indian foreign minister's remarks at the London conference made clear (with the caveat that these opportunities should be offered to *all* mujahidin, not just the Taliban).

The current position of the Indian government is in consonance with long-standing policy towards domestic insurgent groups, in which rehabilitation and reintegration is commonly offered to militants who wish to renounce violence and use constitutional means to achieve their goals.

Were the Taliban to join guarantees that India would not be attacked from Afghanistan nor would Indians be persecuted within Afghanistan, a wider constituency that favours the reconciliation policy could develop. For India, it was a confidence-booster that reconciliation was led by President Karzai, albeit with a major role for Pakistan. With the Afghan leadership now in question (Europe, especially, appears to be leaning towards Pakistani leadership of the reconciliation efforts), India might recalibrate its approach. The return of an unreconstructed Taliban, the Indian government fears, could not only turn Afghanistan back to the late 1990s, but also undermine the Pakistani state's current battle with extremism and its long-term stabilisation.

Important but neglected aspects of stabilisation

Most observers agree that intraregional trade is a critical paving stone for peace and could provide an essential impetus to Afghanistan's economic

recovery. India has offered its markets for Afghan goods, and given the size of the Indian market, this could provide rapid economic boosts for the agricultural sector in Afghanistan, on which 80% of its population depend.

But attempts to increase trade have been held hostage by mistrust in Pakistan's relations with Afghanistan and India. There are two key issues that have hung fire for close to a decade now:

- the Pakistan–Afghan Transit Trade Agreement, and
- an energy corridor from Central Asia through Afghanistan and Pakistan to India.

Pakistan and Afghanistan signed a Transit Trade Agreement in 1965. The agreement became an issue after the Bonn agreement, when Afghanistan's new government sought land access through Pakistan for humanitarian aid, and the difficulties gathered storm when India and Afghanistan sought to use the agreement for trade. In 2009, wrangles over renegotiating elements of the agreement prevented Afghanistan from exporting its bumper crop of fruit and vegetables to India, causing large losses for Afghan farmers and setting back Afghanistan's efforts to revive its non-poppy agricultural economy. Eventually, India decided to bypass the problem by airlifting consignments for the Indian market directly from Afghanistan. In May 2009, Pakistan and Afghanistan signed a Memorandum of Understanding for transit trade at a meeting in Washington. Under the Memorandum, the two countries committed to signing a revised Transit Trade Agreement by the end of December 2009, but talks in December foundered, and it is hoped that the agreement will be negotiated in 2010. The energy corridor is similarly stalemated.

In the meantime, Afghan analysts believe that a regional rather than bilateral framework might work best for Pakistan. The Third Regional Economic Cooperation Conference on Afghanistan made the point that progress on regional arrangements, such as the South Asia Free Trade Area Agreement (SAFTA) to which Afghanistan is a party, is urgently required. The conference also highlighted that there is a general consensus that SAFTA needs to be fast-tracked, especially with Afghanistan as a new member of the South Asian Association for Regional Cooperation (SAARC), whose stabilisation would benefit greatly from the opening of regional markets.

It is hoped that a trade agreement covering these aspects will be agreed at the SAARC summit at the end of April 2010. But it will require concerted regional and international support to become a reality.

Conclusions

The three-pronged reconciliation policy, which combines a surge-conquer-hold strategy with a buyout for the local and mid-level Taliban and calibrated negotiations with the Taliban, is still in the phase of teething pains. Trying to impose an accelerated timetable on it could be very counter-productive. Reconciliation *is* the key to stabilisation in Afghanistan – provided that it is not limited to the Taliban alone, but includes wider political and provincial reconciliation within Afghanistan. Without this wider context the risk of anti-Taliban Afghan actors mobilising their own protection will be heightened. In the rush to reconcile with the Taliban, the danger of ignoring the reaction of opposing Afghan groups, many with armed loyalties of their own, is high.

Second, the search for Pakistan to play a key role in the reconciliation process needs to be very carefully worked out, with inputs from civil society and independent analysts, so that Pakistan's own battle against extremism and Afghanistan's quest for sovereignty are not compromised.

Third, the policy of seeking regional support and guarantees from Afghanistan's neighbours requires beefing up. Each of them faces a heightened security threat from *any* policy that does not have the support of all the powerful Afghan actors. At present, Turkey appears to have taken a lead on it, but has already messed up. Admittedly, the regional actors are unlikely to accept leadership by any of those among their ranks. Yet, they are likely to respond to a series of initiatives by regional actors, especially India, Iran and China, which could be separate but interlocking.

Finally, while deadlines and timetables are important, if they are not based on the ground realities they can create further instability.

Afghanistan: Shifting from a State of War to a Political State

Fabrice Pothier*

After almost nine years of the campaign in Afghanistan, soldiers, diplomats and experts alike agree on at least one thing: the solution to the conflict is political and not military. Beyond that, there is little of a concrete political strategy. This was revealed yet again at the London conference last January where, despite talks of transition in Afghanistan, the international community and the Kabul government have failed to produce a realistic proposition to draw the conflict to an end. There is urgency. The clocks for the campaign in Afghanistan are ticking – the Afghan population mistrusts Kabul as well as the international community’s support for the leadership of President Hamid Karzai; Afghan wealth and elites are fleeing the country at a growing pace; Western public opinion is averse to more casualties and increasingly sceptical about the mission as a whole; and, after nearly nine years, political leaders – in both Afghanistan and the West – listen more to the sirens of local politics and the power game than to principled commitment and cooperation centred on good will.

Adding to that, the latest US military surge is also the last. NATO’s military footprint has reached a ceiling. It has 150,000 troops of which fewer than a third are active, deployable combat troops (US, UK, Danish, some French troops and a few special operations troops). This means that the next 12 months are the last throw of the dice on the military front and that the political front is becoming ever more important.

Yet few realistic political options have been proposed so far. That is to say, few apart from one: reconciliation, which stood as the international community’s new silver bullet announced at the London conference. It consists of buying off low- to mid-level insurgents and presumably reintegrating them into Afghan society. Beyond the many serious operational problems that such an approach poses, it is also based on the

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false premises that Taliban insurgents (including the rank and file) are motivated by economics and not politics, and that there are 'moderate' or 'grey' Taliban members as opposed to just hard-core ones. But more fundamentally, in its haste to find short-term exit scenarios, the Western coalition has mistaken reconciliation for a political end in itself, rather than for what it is – a tactical move to defuse the insurgency.

For the negotiations with the insurgents to work as a bridge from a state of war to a political state, they need to be part of a broader process of redefining Afghanistan's institutional and political balance. Offering a few cabinet seats and local appointments to the insurgents in exchange for peace is unlikely to address the growing disconnect between ethnic balance and the power distribution, and is likely to lead to a backlash from Karzai's northern Afghanistan allies. Meanwhile, a Taliban regime is neither a desirable nor a realistic option. A process whereby all factions in Afghanistan (the disgruntled Pashto tribes, including but not only those represented by the Taliban, and those from the former Northern Alliance) take part in a legitimate process of rebalancing power and resources is a difficult yet necessary way forward for Afghanistan. Success is far from guaranteed but the alternatives – rampant conflict, weakening Afghan institutions and the fragmentation of power – are much worse. It is therefore time to shift the debate from whether we should negotiate to how and for what outcome, and place it in the broader need for political reform and reconciliation in Afghanistan. Machiavelli's advice to the prince was to consider time the very essence of political action, and the time for a broad process of negotiations is now.

Reconciliation vs. negotiations

The London conference failed to make the leap towards the call for a full political resolution process with the insurgents and other disaffected groups. Instead, it chose to promote the narrower notion of reconciliation, i.e. buying local insurgents away from the battlefield. A special trust fund with up to \$140 million of pledges from international donors was set up. Previous attempts at reconciliation have failed to make a difference. There were technical, operational reasons for this outcome: the attempts were poorly funded, lacked real job reintegration schemes and failed to include de-radicalisation infrastructures like those developed in Indonesia or Saudi Arabia. More significantly, past failures also stemmed from a flawed reading of the nature of the Afghan insurgency.

Broken or absent local institutions and competing informal actors have meant that such a cash-for-peace scheme is almost impossible to administer, especially in conflict zones like southern Afghanistan where it would primarily be implemented. There is nothing wrong with buying peace or buying your way towards consolidating legitimate state power. A recent article on foreign affairs about the centralisation efforts of the French *ancien régime* shows how successful French kings were at co-opting the rebel-prone gentry through privileges and money. In the case of Afghanistan, however, attempts to buy actors off have always resulted in the opposite effect: parts of the central authority are dismembered and 'given away' to local players, whose militias maintain security instead of the national police, further reinforcing centrifugal forces that undermine the emergence of an Afghan state. This point is illustrated by President Karzai's appointment of regional lords like Rashid Dostum or Marshal Mohammad Fahim in senior government posts, respectively as chief of the army and vice-president, to cement support in northern provinces of Afghanistan for the presidential elections.

But more fundamentally and as noted earlier, this approach to reconciliation rests on the false premises that local insurgents are driven by economics rather than politics. And that offering them economic alternatives – cash as well as jobs – will be enough to take them away from the battlefield and ultimately weaken the insurgency. This oversimplification fails to acknowledge that the core factor fuelling the insurgency from its leadership in Quetta to local commanders is a complex mix of social and political grievances. Undoubtedly, there is degree of economic opportunism within the insurgency, including the Taliban enabling the drugs industry to flourish in exchange for money and arms, or rank-and-file members receiving a monthly stipend allegedly higher than those offered in the Afghan national police or army. Yet overall the insurgency is riding on a blend of nationalistic-cum-xenophobic views (driving the foreigners and their 'clients' in Kabul out of the country) and reactionary Islam (preserving a traditional social order against the threat of modernisation and progress). Even at the local level, social pressure to join the insurgency is likely to play an important role. We should not underestimate the extent to which some Pashto tribes and groups have felt excluded from the power and money redistribution of post-2001 Afghanistan, and the extent to which the Taliban have masterfully leveraged the disgruntlement of some tribes and groups to consolidate their base in southern Afghanistan. Even outside the Pashto belt, in

northern provinces such as Kunduz, the Taliban have proven highly effective at playing tribal subgroups against one another as well as attaching to the tribal identity that is receding, especially in the south, a Pashtu-centric political narrative advocating a traditional social order based on a combination of tribal code and fundamental Islam.¹ Observers who have travelled to Taliban heartlands like rural Kandahar often remark that apart from kites and music, which are now allowed, the social order in those areas has barely changed since the Taliban were in power in the 1990s.

Nevertheless, NATO commanders believe that in parallel to the direct military pressure economic incentives might help break the insurgency's stride. Still, a deeper process of political negotiations is missing and is needed, even if the US counter-insurgency strategy manages to regain the momentum. This was the original sin in 2001 at the Bonn conference when the defeated (Taliban) and their ally (Pakistan) were absent from the political arrangements. Actually, the Bonn process produced Afghan institutions based on a *Traité-de-Versailles* mindset of rewarding the winners and excluding the losers. What is now needed is a post-Bonn process that overcomes the distinction between winners and losers, and instead outlines a win-win political process for all major Afghan factions.

'Too many cooks' ...

Negotiations with insurgents will inevitably involve many actors with conflicting interests; almost all actors have as many reasons to engage in negotiations as in making them fail. While many have wondered who will be the negotiating partner on the side of the Taliban – the Quetta *shura*, the Haqqani network or Gulbuddin Hekmatyar – the question also stands for the other side of the negotiating table. The Kabul government plays a central role yet is not in a position to provide the security guarantees that will be crucial to a deal, while Islamabad, which so far acts more as a spoiler than a facilitator holds many security and political keys to the Quetta *shura*. The US holds the biggest sticks and carrots but cannot be the one sealing a deal. Regional powers such as India, Russia and Iran form

¹ See the analysis of how the Taliban have leveraged broken tribal systems in southern Afghanistan to their advantage in Gilles Dorransoro's latest Carnegie paper, *Afghanistan: Searching for Political Agreement*, Carnegie Endowment for International Peace, Washington, D.C., April 2010.

what could be called an 'arc of sceptics'; a final outcome is unlikely to depend on them but they are in a position to upset the negotiation process. Finally, the UN and Saudi Arabia can act at different levels as facilitators – the former giving the final settlement the needed international recognition and the latter providing a venue for proximity talks as well leaning on the Taliban and Pakistani partners.

First is the central local player: the Kabul government. The conventional wisdom says that Kabul should lead the negotiation efforts. If, however, the government needs to be part of the solution, it is also in many respects one of the main impediments to a political settlement. Senior government officials, including President Karzai and those from the non-Pashto ethnic groups from northern Afghanistan (mainly the Tajiks and Uzbeks) have very little interest in seeing their formal, and more importantly, informal power networks threatened by new political players. The proposition advocated by senior members of the Afghan cabinet during the London conference that the Taliban are welcome if they abide by the constitution is a non-starter. It fails to acknowledge that the 2003 constitution born out of the Bonn process is part of the problem and needs to be reformed: the electoral system and calendar should be overhauled, the judiciary strengthened and the centralisation of power rebalanced with more resources and autonomy given to the local level. Moreover, the current Afghan institutions, particularly the office of the president, are widely considered both ineffective and lacking in credibility (as acknowledged by the current US ambassador to Kabul in candid cables to the US state secretary),² especially since the fraudulent 2009 elections. In his West Point speech in December 2009,³ President Barack Obama refuted the comparison between the campaign in Afghanistan and the one in Vietnam. He omitted one obvious truth: that the Karzai government – from its

² See the link to the leaked cables on the website of the *New York Times*, "Ambassador Eikenberry's Cables on U.S. Strategy in Afghanistan" (<http://documents.nytimes.com/eikenberry-s-memos-on-the-strategy-in-afghanistan#p=1>).

³ Refer to US White House, "Remarks by the President in an Address to the Nation on the Way Forward in Afghanistan and Pakistan", United States Military Academy at West Point, New York, 1 December 2009 (retrieved from <http://www.whitehouse.gov/the-press-office/remarks-president-address-nation-way-forward-afghanistan-and-pakistan>).

ineffective and corrupt institutions and weak security forces to its low credibility among the population – shares many common features with the then US-sponsored Saigon government, and could well share its doomed fate if not reformed. The Taliban are no Vietcong, and Pakistan’s covert support is no match to that provided at the time by the Soviet Union, but it remains clear that Kabul is a weak negotiating partner. Other external players, especially the US, need to follow the twin track of strengthening Kabul while in parallel actively enabling peace negotiations, especially when the partner in Kabul is reluctant or too weak to engage.

Pakistan is the second central player in a negotiation process but not without deep ambiguities. Its tribal frontier regions, which host a larger Pashto population than that on the Afghan side, have provided the main logistical and political hubs for the Afghan Taliban insurgents, with their notorious chief, Mullah Mohammed Omar, allegedly based in Quetta. Pakistan politico-military thinking is still very much embedded in an existential struggle against India, where Afghanistan is used through the Taliban and other proxies to provide an all-vital ‘strategic depth’. The recent Taliban attacks in Kabul, which were targeted at the Indian embassy and guesthouses frequented by Indian expatriates, stand as a reminder that Afghanistan is the Western frontline in the ongoing Pakistan–Indian confrontation. Those attacks, with their sophistication and multiple-target strategy, could have not been executed without enablement from the Pakistan security apparatus. The thinking and actions of the Pakistan military – the leading institution (and economic stakeholders) in the country – remain torn between a strategy of fomenting insurgency (FOIN) on their Western flank and beyond the Durand line to one of waging counter-insurgency (COIN).⁴ At the same time, what constitutes Pakistan’s role in a direct lethal threat to coalition troops in eastern and southern Afghanistan, also represents an opportunity to make Islamabad part of a broader political settlement. Facilitating a negotiation process between the Karzai government and the Quetta *shura* offers Islamabad the prospect of placing some its pawns in the formal political process in Afghanistan. Indeed, the capture by Pakistani forces of the deputy Afghan Taliban chief is seen by many observers as a way for Pakistan to invite itself to the negotiating table; it sends the basic message that no negotiations can be

⁴ See Haider A.H. Mullick, *Pakistan’s Security Paradox: Countering and Fomenting Insurgencies*, JSOU Report 09-0, Hurlburt Field, Florida: JSOU Press, 2009.

finalised without Pakistan's involvement and assent. On the other hand, it can also be argued that the current FOIN and covert strategy can provide more strategic edge than the highly uncertain process of political settlements. The Pakistani leadership is unlikely to have forgotten the 1990s when the more the Taliban became the dominant political power in Afghanistan the less Islamabad had any leverage on the group.

The regional dimension of negotiating with the Taliban is not confined to Pakistan. Even though Iran, Russia and India are unlikely to play a major role in the negotiations, they hold stakes high enough to influence, positively or negatively, their outcome. In addition, these three countries form the arc of scepticism about negotiations with the Taliban.

Russia is the reluctant northern player in Afghanistan. Since 2001, Moscow's approach to Afghanistan has been narrowly focused on two threats: narcotics and the spread of radical Islam in former Soviet republics. Because of its 'Afghan syndrome', Moscow's involvement has remained mostly technical through allowing the crossing of NATO's non-lethal and lethal supplies from the Baltic Sea, training anti-narcotic troops in Tajikistan and supporting the former Northern Alliance. Drugs have probably been the issue on which Moscow has recently been most vocal and concerned. With a population of 2.3 million addicts, 80% of Russian suffering from HIV/AIDS also being injection drug users and 70 tonnes of Afghan heroin reaching its streets every year (this is proportionally much higher than the 88 tonnes that reach the rest of Europe), Russia is one of the main destination markets for Afghan heroin. It is little surprise then that Moscow, including more recently its drug envoy during a visit to NATO, calls for greater efforts by NATO to fight drug trafficking in and out of Afghanistan.

However legitimate, these concerns are unlikely to produce any policy shift for several reasons. First, is a failure to see that NATO, and more specifically the US and the UK, has been grossly ineffective at tackling the Afghan opium industry despite years of aggressive crop-eradication campaigns and billions of dollars poured into so-called 'alternative development'. This approach clashes against one fundamental reality: the cost of tackling drug production in a conflict zone like southern Afghanistan, which lacks basic governance and rule of law, and implementing a functional counter-narcotics strategy is higher than the

benefits. Similar regional cases like Burma show that a significant reduction in illegal opium production is possible only after a local conflict has been brought to an end.⁵ Simultaneously waging a war against an insurgency and one against the drug industry is not only a dangerous overstretch, it compromises higher stabilisation goals. Second, too great a focus has been given to fighting cultivation, the poorest segment of the opium value chain – farmers traditionally account roughly for 15% of the multibillion dollar opium industry – and too little at tackling high-end trafficking, which concentrates the most valuable, corroding and dangerous parts of the value chain.

What Moscow also overlooks is that its serious drug-consumption problem can be fought more effectively domestically with comprehensive and progressive public-health interventions, such as programmes for substitution (methadone, a rather cheap and effective substitution to heroin, widely used in Western Europe, is still illegal in Russia) and clean-needle exchange. These could be bolstered by smarter law enforcement (going after traffickers instead of users or small-time traders). But the wounds of the Soviet campaign and its humiliating withdrawal in 1989 remain prominent in the Russian political-military psyche. This is a determining factor in Russia's reluctant involvement and in its opposition to see a return of the Taliban, even under a more acceptable political accord. Moscow additionally holds conflicting views about NATO's presence in Afghanistan: on the one hand it wants NATO to contain a much-feared Islamist radicalism; while on the other hand a successful NATO could further upset Moscow's influence in Central Asia. Indeed, Russia seems not to have decided yet between a minimalist post-2001 approach or a more maximalist one using vehicles like the Shanghai Cooperation Organisation and the Collective Security Treaty Organisation to develop a more regional response to post-NATO Afghanistan. Still, as two experts on Russia rightly note, "[i]ronically, Russia's negative interests in Afghanistan are more important than the positive ones".⁶ As a

⁵ A sequencing between ending conflict and countering narcotics is described in "Does Russia Want the West to Succeed in Afghanistan?" by Ekaterina Stepanova, PONARS Eurasia Policy Memo No. 61, Eurasian Strategy Project, Georgetown University, Washington, D.C., September 2009.

⁶ See Dmitri Trenin and Alexey Malashenko, *Afghanistan: A View from the North*, Carnegie Moscow Centre, Moscow, 2010.

permanent UN Security Council (UNSC) member, Russia holds an important card, especially for giving greater tacit and formal support for the UN to play an active role in facilitating a political settlement. This would involve the removal of Taliban leaders from the UNSC's terrorist list. The process was started just before the London conference, probably as a show of good will, but more is likely to be required to secure a deal with the Taliban leadership. A greater role for Russia within NATO's International Security Assistance Force (ISAF), including the sharing of some intelligence briefings, could make Moscow more open to giving the UN an expanded mandate on political negotiations.

With direct security concerns in mind, India looks with nervous eyes upon the idea of bringing the Taliban into the main political fold in Afghanistan. New Delhi, which has pledged up to \$1 billion for reconstruction in Afghanistan and is deepening its commercial and diplomatic ties with Kabul, sees negotiations as potentially a victory for Pakistan. That notwithstanding, some clear security guarantees – that Indian interests and personnel in Afghanistan will not be threatened and that Islamabad will dismantle groups like Lashka-e-Taiba – could hold the key to India's acceptance of a political deal with the Taliban.

As the holder of both the biggest carrots and sticks, the US is a determining factor and player in the process. Yet the US cannot overtly lead the negotiations process and run the risk of 'de-Afghanising' the efforts. For example, until recently President Karzai was leading the efforts to engage with the Taliban, which were viewed by India as a 'confidence booster' according to regional expert Rahda Kumar.⁷ Nonetheless, in light of Karzai's fundamental weakness, the US must play an active role as a stimulator of a reluctant Afghan leadership and a security guarantor to the insurgents who lay down their arms (while stopping targeted killings and imprisonment in Bagram) along with enforcing guarantees that the Taliban will refrain from targeting international personnel and representatives. The most realistic scenario is if the US, under the legitimacy of the UN, gives the negotiations the impulse they need to allow a deal to hold. This would entail bringing together in Islamabad the various reluctant players from the Karzai administration, addressing the concerns of regional sceptics like

⁷ See the contribution by R. Kumar to this European Security Forum Working Paper No. 34, "Afghanistan – The Day After", ESF Working Paper No. 34, CEPS, Brussels, 2010.

India or Russia and ultimately providing the security guarantees – no association with al-Qaeda and laying down arms against an end to targeted killings and arrests.

Finally, despite its loss of credibility after the August presidential elections, the UN remains the best-suited and most credible framework the Western coalition can use to support and enable political negotiations. But if it is to play such role, the UN Assistance Mission in Afghanistan needs a new, reinforced mandate. The current mandate recently renewed under UNSC Resolution 1868 puts the emphasis on peacekeeping and aid coordination, with the UN largely being outweighed by the NATO ISAF and the US operations, while it provides only a limited mandate for ‘political outreach’. An expanded mandate would shift priorities from peacekeeping to facilitating a peace agreement.

The known unknowns that can upset the political process

Circumstances in Afghanistan have been fast evolving with an overall trend towards the degradation of political, human and security indicators. Several new factors ranging from the impact of the US military and civilian surge, targeted killings of insurgency leaders and the general elections that should take place in September 2010 could significantly alter the context in both positive and negative ways. The targeted killings and arrests of Taliban senior commanders in Afghanistan and Pakistan, such as Taliban military chief Mullah Abdul Ghani Baradar in Karachi in February 2010, come with very ambivalent implications. On the one hand it exerts pressure on the Taliban leadership, disrupts its lines of command and triggers fractious power struggles within the movement. The Pakistan-based Taliban are known to feel more vulnerable and disrupted under the US drone attacks and Pakistan’s occasional cooperation. On the other hand, vulnerability does not imply a fundamental change of ideology or approach among the core Taliban. On the contrary, the arrests or killings of Taliban operatives are likely to have a disruptive effect on the negotiations by removing the old Taliban guard, to be replaced by a lesser known and often more radical new guard, who will be less inclined to be negotiation partners. The capture of commanders like Mullah Baradar is read by some as a warning by some elements of the Pakistani security apparatus that those who contemplate negotiations will be eliminated.

A wild card would be another al-Qaeda attack against Western civilians. This wild card would render the differentiation between Taliban and al-Qaeda irrelevant. The notion of negotiations with the Taliban would

become a political taboo again for a US administration too easily accused of appeasement. This was clearly the case when the Obama administration reversed its decision of sending Yemeni inmates in Guantanamo back to Yemen following the botched bombing attempt by a Nigerian student with assistance in Yemen by al-Qaeda operatives. An attack led by a Pakistan-based radical group, such as Lashkar-e-Taiba, against Indian or Western targets would also significantly upset the precarious regional balance and harden India's stance towards negotiations with the Taliban.

Where does the deal end?

The map of players and interests to involve in a negotiations process could not be more complex and conflicting. The question remains about what should be the objectives of the negotiations. It is unlikely that giving away a few cabinet seats or prestigious appointments will meet the Taliban's demands. Meaningful negotiations need to aim at a deeper and more comprehensive package based on three aspects: security guarantees, power-sharing and institutional arrangements. On the security guarantees, a key demand from the both the Kabul government and the international community should be a temporary cease-fire. In exchange, targeted killings and arrests would cease while negotiations start. Longer term, the security guarantees should involve a progressive de-militarisation of the Taliban groups, including the integration of the Taliban rank and file as reserve forces (with uniforms and salaries but no arms) instead of militias. For the negotiations to be part of a long-term peace-building strategy rather than a short-term exit scenario, renegotiations of the Bonn institutions involving all Afghan factions – including groups represented by opposition leader Dr Abdulah Abdulah – are essential. This step should also provide an opportunity to sustain an Afghan-led effort to reform those institutions, i.e. the office of the president and the electoral commissions, which have proven in recent elections to be dysfunctional to the point of undermining the entire nation-building effort. The concerns voiced by some experts and groups that values such as women's rights (the Afghan parliament has far more women MPs than the French one) and those of society as whole will be bargained away are legitimate. Nevertheless, these concerns miss the point that the Afghan polity has significantly shifted towards more conservative values than the West wants to recognise. The controversy in the summer 2009 over the passing of the 'rape law' as well as the condemnation of ordinary Afghans for alleged religious crimes are just a few of the many signs of a hardening of Afghan politics under President

Karzai. Therefore, the introduction of Taliban leaders in the polity will not necessarily mark a significant shift. Ultimately, the redefinition of institutional balance and of Afghan values should be left to the Afghans themselves within the agreed framework of the rule of law.

Such peace negotiations are fraught with obstacles: ambiguous stakeholders like Pakistan, weak players like the Afghan government and reluctant partners like India and Russia. Yet the alternative, which will involve a war of attrition, erosion of the international resolve despite possible military success and an accelerated fragmentation of power - is hardly an option.

Afghanistan's Political-Military Crises and Future Prospects

Rahmani Waliullah*

Afghan political society is at a standoff. The reasons for this are both domestic and external.

Growing insurgency threatens the nation internally while regional ambitions threaten to tear the nation apart from the outside. The post-Taliban democratic state faces existential strategic threats as a consequence.

After nine years of military and political effort, national and international actors seem to have arrived at an impasse. Everyone from the president to the cabinet, to various peace commissions, to local and tribal leaders as well as *shuras*, to the international community, appreciates that time is running out.

For NATO's International Security Assistance Force in Afghanistan, December 2010 is a key deadline. General Stanley McChrystal, America's chief commander in Afghanistan, has said that by December of this year, the Obama administration expects there to be visible progress in stabilising the south, capacity built in the Afghan security forces and more territories ready to be transferred to the Afghan national forces. While some question this deadline, the world will be watching to see if NATO can achieve such progress in the deadlines it has been prescribed.

What Afghans not engaged in the insurgency do not want to see, however, is a peace that is forged by handing the nation over to its most extreme elements. In other words, Afghans want to reconcile with the insurgents too, but not if the cost is that once again the country should be at the mercy of the Taliban hard-liners. Reconciliation with the Taliban should not mean submission of the Afghan people to the extremists.

More than 100,000 Soviet forces could not stabilise Afghanistan as recently as the 1980s. Is it really any wonder that a domestic force of no more than 50,000 police and 70,000 soldiers is unable to stabilise the

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country today? Afghanistan's geographical challenges alone render these force numbers imprudent.

It has been said that perhaps the Americans have been using what they did in Japan after WWII as their model for Afghanistan. That is, the idea has been to have a demilitarised state here. Obviously, Japan was a success but unfortunately that model could not work here. Afghans are infamous for their hard-line extremism and some elements of this culture have never been able to accept the idea of foreign rule, even at their own peril.

Indeed, foreign ignorance of our traditions and ways has had devastating consequences in Afghanistan as everyone can attest to now, given the legions that have become disenfranchised from the international project because of insensitive night raids, house searches and the number of civilians who have been killed as the result of bad information, and no doubt worse informants.

Then there are the issues our neighbours have that need to be factored into the calculation. Pakistan, for example, has yet to figure out that Afghanistan is not under Islamabad's explicit control. But with billions of dollars in international aid underscoring Pakistan's belief, it is not hard to understand why Islamabad seems to have such a vested interest in our affairs and in making sure their assistance in the war on terror continues to be funded. Not to mention the problems the Durand line has long caused our two nations.

Pakistan has taken money out of Afghan markets by making sure that Karachi and Khyber are the main ports of entry into the country. When NATO supply lines have come under siege, it is Pakistan that has been paid the extra dollars to see that the lines are protected. Afghans suffer because they have to pay inflated prices for the goods that have to be imported. If this strategy has backfired to a certain extent - evidenced by the supply routes Afghans have alternatively forged through Iran - all the Afghans seem to have gotten out of the deal are increased concerns about Iranian influence from Pakistan, Saudi Arabia and even the US.

Iran and Pakistan have always been economic and political rivals in Afghanistan. With the international community in Afghanistan now, this rivalry has intensified.

Moreover, Iran is not the only country that Pakistan does not want to see in Afghanistan. India's presence here is also deeply resented. That India has been largely helpful to Afghanistan in the past nine years, putting its

efforts into various infrastructure projects, enrages Pakistan. While some experts believe that improving relations between the two countries spells relief for Afghanistan, it seems unlikely at this point that Pakistan is going to be easily persuaded that India's welcome presence in Afghanistan is anything but a threat.

Then there is the support that Pakistan gives to the Taliban. Supporting the Taliban in Afghanistan has become an institution in Pakistan and the Taliban are now at the point where it can be argued that they are able to threaten Islamabad itself.

The military establishment of Pakistan – the army and Inter-Services Intelligence (ISI) – has to date been the main supporter of the Taliban in the Pakistani government. The military establishment in Pakistan has looked to the Taliban to be their proxy force in Afghanistan. They use the Taliban to do everything, creating a sort of perverse balance to India's good work in Afghanistan.

Pakistan also uses the Taliban to ensure continued inflows of US anti-terror money. In other words, Pakistan is fully aware of how much it has earned so far in the US war on terror, and understands how very profitable a long war on terror will be. The ISI thinks that a Taliban-free Afghanistan is not in Pakistan's national interest – not with this kind of aid coming in. Pakistan's instrumentalisation of the Taliban has netted some \$11 billion over the past nine years. No wonder Pakistani army Chief General Ashfaq Kayani referred to Afghani militant commander Jalaluddin Haqqani as a strategic asset in an intercepted email in 2008. And it is this kind of money that makes certain high-profile attacks in Afghanistan will continue – especially attacks on Indians, at their embassy or on their doctors and guest workers resident here in guesthouses or even at the Kabul-Serena hotel. These attacks are to Pakistan like hitting two birds with one stone.

That is why so many former ISI officials and Pakistani political characters rally to the defence of the Taliban. They share the Taliban's extreme ideology and have shared economic interests. For example, former ISI chief General Hamid Gul is a vocal champion of the Taliban in Pakistan and one of the group's founders. So recent statements of his, for instance that the Taliban are the future of Afghanistan or his saying that the recently arrested Taliban commander Mullah Abdul Ghani Baradar should not be handed over to Afghan or American authorities because his only crime was illegally living in Pakistan, should come as no shock. The links between the ISI and the Taliban are even older than the Taliban itself.

The Taliban came out of Pakistan's madrasahs – there are now some 38,000 madrasahs potentially cranking out Taliban members – spread all over Pakistan. Many of these madrasahs, while not Darul Uloom madrasahs per se, share the same Deobandi-Salafi interpretation of Islam that the Taliban have. These madrasahs continue to produce new Taliban members. Until we change the curriculum and ideology in these madrasahs, they will keep turning out extremists insufficiently educated for anything but jihad. If Pakistan is trying to reform these schools, there seems to be little evidence to show for their efforts, even nine years and billions of dollars later.

One wishes our problems ended there. Admittedly, we Afghans do love to point the finger when it comes to assigning blame for all the mistakes that confound us here. But we also recognise that we share much of the blame for our condition. First – and easiest to admit – are the mistakes our own leaders have made.

Back in 2003, when the Taliban was still vanquished, we made the mistake of marginalising the warlords and mujahidin commanders who had brought the country to this point in an effort to neutralise them. After all, they had brought us civil war and then the Taliban, thanks to not knowing when it was time to lay down their arms and just get along.

Democracy might have seemed to be the natural province of technocrats, but in marginalising the warlords all our government did was create an instant class of enemies and fierce enemies at that. Kabul did not bolster its control with this move, but rather divided the country into two factions – the government versus the warlords and the mujahidin that the government had just stripped of power.

No wonder the Taliban found it easy to come back into Afghanistan. Of course they were never very far away in the first place. They only had to go as far as Pakistan to find a safe harbour, making their subsequent entry into Afghanistan all the easier.

The Taliban might seem foreign to both the foreigners and the Afghans who live in Kabul. But we can never forget the traditional appeal they have for their co-extremists and fellow tribals in other areas of the country. Their radical ideology enabled them to obtain control of 90% of the country in the 1990s; today, it continues to threaten if not 90% then at least a good swathe. It is hard to think that the same ideology that attracts suicide bombers is an ideology that can be reconciled with democracy.

While we cannot get around the ethnocentric nature of the Afghan polity, our history does provide examples of the broad ethnic landscape that we have here. Yet, regardless of whether we have lived under kingdoms, republics, communism, mujahidin or the Taliban in Afghanistan, the common denominator of all of these various regimes that have tried to subdue our people is that they have all distributed their favours along mostly tribal or ethnic lines.

During the reign of Afghan kings, the king's tribe, family and ethnicity formed the first rung of power in Afghanistan, but they also comprised the second- and third-level ranks (the *Tabaa* in Dari). Only the relatives of the king or those whom he deigned to privilege were treated as citizens. The rest were subjects and very unequal subjects at that. Centuries under this kind of rule made Afghans believe that this was how all rulers necessarily wielded power.

Afghans in effect became dehumanised. They were essentially – that is, in their own minds – either masters or slaves. There was no middle ground, no sense of basic rights and no belief that a people could hold its leaders accountable. Today, we see this played out in the legions of Afghans who think they are the subjects of this government and have little faith in a democratic government that they are told they can change at will.

The hope that a post-Taliban Afghanistan represented, that the country could somehow go forward as any modern democratic state, only infected a small percentage of the population. While educated Afghans from a particular ethnicity might have cherished a dim hope that someday soon they would be able to talk about the benefits of citizenship in their homeland – for instance equal rights and democratic governance – the new phase had trouble catching on.

Afghans could never really trust someone from outside their traditional power bases. And so when even democracy translated into the same old ethnocentric vision of power-grabbing that every other regime evidenced, Afghans were not surprised. They expected to see the ruler's friends and family in the various new ministerial posts, the judiciary and even the parliament.

And the ethnocentricity of our polity has only grown worse since the second election. The Pashtun–Tajik political rivalry has become more visible by the day: look at the ethnic makeup of the current Afghan cabinet or the parliament's actions against the Hazara and the Uzbek ministers as

examples. In every key institution we can see evidence of the deep ethnic divides and discrimination that plague the unity of our nation.

The general consensus within Afghanistan is that we must have some form of political reconciliation with and reintegration of the insurgents. This idea was loudly endorsed at the London conference where the goal was set and funds were supposed to be raised and allocated for a programme.

But how exactly was this supposed to come about? Who were the Taliban with whom we were supposed to reconcile? Where would we find them? What would make them come over to the side of democracy? And what would be their price? In theory, reconciliation sounded great, but there was little to go on when it came time to actually implementing this process.

One hopes the international community does not forget the blood that they and we Afghans have shed to get our democracy even this far. It is also to be hoped that whatever peace negotiations we agree upon to go forward will not make these sacrifices in vain, as the pre-conditions the Taliban has set would seem to render them. Their insistence on the withdrawal of foreign forces will mean one thing to the Afghans who have signed up to the democracy project so far: they will be 'toast' as the Americans say. And our constitution as we know it will go and the democratic state of Afghanistan will once again become the Islamic Emirate of the Taliban. And our children will have to put away their kites in a nod to the Taliban's bizarre concept of sharia law.

Everyone assembled knows that today, nine years after the American-led invasion, Afghanistan faces a political-military crisis that may threaten our process of democratisation and the survival of Afghanistan. If the democratic project fails, we can go down from here to a failed state and nation. We could become the world's most corrupt state as opposed to its second most. Our weak democratic institutions could give way to Mullah Mohammed Omar and his kin. We could have instability in even more than half the nation. And the terrorists could come back along with their training camps and we could once again start exporting something even worse than the opium we export today.

So what do we do? How do we come up with a peace plan that will finally work? How do we get our jihadists to focus on the war against their own illiteracy and ignorance as opposed to our foreign occupiers?

The answer is that we have to stop catering to the ethnicities that want to drag us backward. We should nationalise the peace project just because the majority of us are willing to live at peace with each other. We cannot allow those who terrorise us today to keep terrorising us tomorrow, in other words. And the way to do that is to prevent handing the insurgents the reins of the nation. We have to instead nationalise all of our institutions. We have to make Afghanistan a level playing field, not the battlefield of the Pashtuns or other ethnicities or the opium field of the criminals; we have to make the nation a place where everyone has equal access by virtue of being Afghan.

We also need to convince Afghans and our international friends that the way forward is to clean up the south. For too long Helmand, Kandahar and other southern provinces have been allowed to symbolise the resurgent Taliban. We need to take these territories away from them.

The only way any of this will ultimately succeed is if we rid ourselves of the tribal and ethnocentric loyalties that compromise every institution and enterprise in this country. We will never have a functional country as long as we cling to our tribal and ethnic roots at the sacrifice of competence and transparency in our institutions.

Then we need our international friends to move Pakistan off the field here in Afghanistan, given that only those who provide them the funds that make what goes on here in Afghanistan so interesting to Pakistan can do so. Pakistan has to be made to see that there is a new game being played here, and that the ways of war are no longer relevant and must be replaced with multi-directional diplomacy and economic ties with all the region's nations - to the benefit of all. The US and Afghanistan must not be forced to choose between India and Pakistan when it comes to Afghanistan. We are not the booty for another nation. Pakistan has enough within its own borders with which to define its national security interests. Pakistan can play a larger role than India in Afghanistan to be sure, but the role has to be productive in terms of changing into a donor and not a destructive actor. That is the way to even beat India.

Then we have to strengthen our institutions. We need a strong security force to stabilise the nation, not to attack our neighbours. We need power distributed fairly, not to family members or favourites or a particular ethnicity. We need to put aside our tribal loyalties and find the best man - or woman - for each and every job in our country. We have too much work to leave it to the spoiled or the incompetent.

Instead of trying to buy the insurgents' loyalty, why not shame them? The Pashtuns have a term that is translated as disgrace or shame (*Nang*). If a Pashtun is given something for free – a donation for example – he is not supposed to accept it. It seen as shameful to take alms when you have the ability to work. But if a Pashtun is given a short-term loan that is another story. So let us stop the alms-giving that is humiliating for many Afghans and instead start giving them access to financing so they can set up businesses and help the rest of us reclaim our nation. We Afghans, all of us, Pashtun and non-Pashtun alike, are a proud people. We do not want handouts. We want to work and be seen as equals. A programme to help us finance our enterprises would be welcome in every community.

Then we must do something about the radical mullahs and molawis who exert such control over our people, especially among the ignorant. There was a fairly successful programme in the Federally Administered Tribal Area during 1930–34 under Khan Abdul Ghaffar Khan, called the Muslim Pashtun Movement of the North-West Frontier of India, which might be emulated.

We need the mullahs to help convince our citizens that the true jihad in defence of Islam today is to refuse to give their hard-earned money to the Taliban, which demands protection money from them, and to refuse to give the insurgents refuge – in other words, a civilian jihad and non-violent struggle against the insurgents. If it happens, we will also be witness to a tribal awakening in Afghanistan, a story that will change the future of the country.

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François Heisbourg was successively First Secretary at the French Permanent Mission to the UN, dealing with international security and disarmament issues (1979–81); an international security adviser to the French Minister of Defence; a founding member of the French–German Commission on Security and Defence (1981–84); Vice-President at Thomson–CSF, in charge of European and Euro-American cooperation (1984–87); Director of the IISS (1987–92); and Senior Vice-President (Strategic Development), MATRA–Défense-Espace (1992–98). Currently, he is a Senior Adviser to the Fondation pour la Recherche Stratégique in Paris and Chairman of the Foundation Council of the Geneva Centre for Security Policy as well as Chairman of the Council of the IISS (since 2001). François Heisbourg is the author of numerous articles and interviews in the academic and general media. Among other works, he has authored and edited *European Defence: Making it Work*, WEU Policy for Security Studies, Paris (2000) and *Hyperterrorisme: la nouvelle guerre*, Editions Odile Jacob (2001).

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