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From the Editor-in-Chief

Welcome to this issue of the *InterAgency Journal*. I hope you like our new look. We will be adding some new features over the next few editions. Your feedback is always welcome.

To remind us that interagency issues are in many cases enduring and that previous professional discourse on a subject has occurred, we will periodically be republishing articles from previous *IAJ* issues. It is important to not forget that research and review of others' past scholarship could well be informative to today's challenges. Our first article is a reprint of retired Ambassador Thomas Miller's article from 2011. More than seven years ago, he wrote about ten simple thoughts on how to better foster interagency cooperation that can still inform us today.

Our next four articles discuss challenges that impact national security and world order. Jason Elbert takes on the complex topic of the prevention of genocide. He discusses the role of the International Criminal Court and the United Nations. He concludes that prevention must start with unified cooperation and can only be accomplished when the international community dedicates the appropriate resources. Determine if he makes his case. Next, author Kenneth Segelhorst educates us on the subject of the private military and security industry. While a topic most recently in the news, this is not a new phenomenon. He provides examples that make for interesting reading and offers his solution as to how this industry can be better held in check while still offering their much needed services. Co-authors Russell Handy, Michael Forsyth, and Joseph Kunkel then make us aware of an evolving and dangerous threat to the stability of our world. "Sovereignty-in-being" – the idea that nation-states are using their mere presence in an area as the basis for a sovereignty claim poses a real threat to world order. And finally author William Scott poses some interesting thoughts on the "Digital Age," – how it has changed our lives and how it continues to shape our world in unforeseeable ways. But is this digital age out of control? Are we doomed to repeat the past? Will the digital age experience a collapse?

"Women and Leadership" – Kevin Shea brings to the fore an issue that needs our attention; and, more. As interagency leaders and practitioners the data he presents indicates that this is a pervasive issue that we all must address. It is time for us to stop talking and actually do something. He offers some best practices for women to consider, but the question is, "Who are you mentoring?"

We conclude this issue's articles with Patrick Wesner and Brett Fuller providing us an example of good interagency cooperation as they discuss collaboration between the USAID and the USACE. They detail how American strategic objectives can be realized when agencies combine technical expertise and organizational capabilities. Their insight about corporate level policies and cooperative-minded practitioners may be applicable to your work.

I want to thank and acknowledge the great work performed by the Simons Center Editorial Board and the various other subject matter experts we periodically call upon. Their behind-the-scenes work to peer review, edit, and assist authors, contributes greatly to the prestige and success of not only the *InterAgency Journal* but also the numerous other publications we produce. A listing of these folks is on the opposite page. You'll find their credentials impressive and their willingness to foster scholarship and interagency cooperation unmatched.

Thank you for reading this issue of the *InterAgency Journal*. Keep doing your good work to make our Nation safe. And as always, please consider sharing your expertise and experiences by submitting articles for publication. – **RMC**

Contributors Wanted!

The Simons Center is looking for articles that involve contemporary interagency issues at both the conceptual and the application level.



The *InterAgency Journal* is a refereed national security studies journal providing a forum to inform a broad audience on matters pertaining to tactical and operational issues of cooperation, collaboration, and/or coordination among and between various governmental departments, agencies, and offices. Each issue contains a number of articles covering a variety of topics, including national security, counterterrorism, stabilization and reconstruction operations, and disaster preparation and response.

The *InterAgency Journal* has worldwide circulation and has received praise from various military, government, and non-government institutions, including the UN High Commissioner for Refugees.

We're also looking for book reviews!

Submit a book review or suggest a book to review to editor@TheSimonsCenter.org.

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Interagency Cooperation:
An Ambassador's Perspective

by Thomas J. Miller

Editor's Note: Many interagency challenges are enduring. The following article was originally published in one of the Simons Center's earliest editions of the InterAgency Journal in 2011. The editors of the Journal invite our readers to ask themselves what has changed – for better or worse - since this article was originally published.

In 2011, it is difficult to think of any event or issue that is any longer confined to the domain, authority, and purview of a single agency in the U.S. government. This is a far cry from the State Department I entered as a foreign service officer (FSO) in 1976, where the majority of work was restricted to State Department players, there was little interagency cooperation or input, and perspective seldom went beyond the department. As the Indochina analyst in the Bureau of Intelligence and Research (INR) and at the U.S. Consulate in Chiang Mai, Thailand, my entire audience was the State Department front office, the functional/geographical bureau, or the embassy in Bangkok. As an INR analyst, I worked on National Intelligence Estimates (NIEs)—definitely an interagency product—but even then, I would offer the INR perspective on a take-it-or-leave-it basis (and take a footnote if I did not agree with the NIE's conclusions). Similarly, in Chiang Mai, other agencies were represented, but while State Department personnel provided some administrative support, these other agencies pretty much did their own thing, with little interaction with the consulate.

The world has become more complex and analysts now deal with issues that were not even on their scope 35 years ago. FSOs now work more closely with other agencies to produce and implement more effective foreign policy. Many books and articles have been written about the need for better interagency cooperation because it is often the lack of such cooperation that undermines the policy. Indeed, the establishment of the Center for Complex Operations and introduction of legislation on interagency professional development by Representatives Ike Skelton and Geoff Davis in the U.S. Congress are just a couple of concrete manifestations of the recognition of the need for better collaboration between the different parts of the U.S. government.

While not claiming to be an expert on the subject of interagency cooperation, my sense

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from reading some of the literature is that it is heavy on theory and rather thin on practice. It also sometimes mistakenly presupposes that simply identifying the problems will lead to solutions. My experience during three decades of government work and the last six years of collaborating with the U.S. government as head of three international non-profit organizations is that solutions are not simply a matter of accurate diagnosis. Rather, deeply held mindsets based on an agency's parochial views of other agencies' positions and perspectives have handicapped interagency coordination across the board.

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Though not any more objective than those involved in non-State Department agencies, I have given a lot of thought to the importance of interagency cooperation in the formation of good policy and implementation of that policy. Fifteen years ago, I lectured on the importance of interagency cooperation to new officers at the State Department's Foreign Service Institute. I based my lectures on my own practical experience and perspective of what worked and what did not. However, in the more complex world of 2011, I offer an updated version of my personal ten practical suggestions. I do so knowing that many readers of this article will be members of the military services and will have a very different set of experiences. Hopefully this article can be the start of a dialogue facilitated by the Simons Center in which different foreign policy players in the U.S. government will come to a better understanding of their partners' perspectives. In turn, I hope this increased understanding will lead to closer collaboration in the formulation and implementation of U.S. foreign policy.

Ten Simple Thoughts for Improving Interagency Cooperation

1) The interagency process can be a force multiplier.

All foreign policy issues have dimensions that extend beyond the traditional State Department diplomatic practice. For instance, solutions regarding transnational terrorism demand not only a perspective from traditional diplomacy but also, inter alia, from the military, development experts (U.S. Agency for International Development [USAID] and others), the Justice Department, the FBI, Homeland Security, and the intelligence community. Indeed, the State Department's recently issued Quadrennial Diplomacy and Development Review (QDDR) recognizes that the co-equal legs of dealing with national security challenges are defense, diplomacy, and development. Interagency cooperation is a necessary but not sufficient condition for effective policy because since September 11th, 2001, an entire world of new actors plays a very important role. From my own experiences since leaving the State Department, I can attest to the importance of the non-profit sector as key actors in the effort to make the environment less hospitable to terrorists.

We have seen that effective cooperation can be a force multiplier relating to U.S. assistance to the agricultural sector of Afghanistan. USAID, the Departments of Agriculture, State, and Defense, and a number of lesser players, all mirrored by their parent agencies in Washington, have been involved in various efforts to aid Afghan agriculture. Recognizing that such complexity can either be a divider or multiplier, the ambassador very wisely appointed

an agricultural czar to coordinate these disparate actors in order to maximize the chances of making such cooperation a force multiplier.

Whoever is sitting at the head of the table or leading an interagency effort should be inclusive and recognize that other agencies within the government as well as players outside the government can add value if the leader creates a welcoming environment and values each agency's input. Policy has much less chance of succeeding without active buy-in from all agencies involved in the project. Although easy to propose, obtaining buy-in is often difficult to accomplish, as the various players come with different outlooks and agendas. If they are to contribute, they have to be convinced that these perspectives and agendas will be heard and respected.

2) An ambassador should never have to invoke the authority granted to him/her.

After World War II, it became established practice that the State Department be the lead agency for all non-military foreign policy matters. This notion was institutionalized over many years and in theory not seriously challenge. Decades ago, a practice was set in motion presenting the U.S. ambassador with a letter from the President that designated the ambassador and the State Department as the lead agency in overseeing all foreign policy matters except those involving the theater military commander.

Unfortunately, some ambassadors believe this is an iron-clad rule without exception and have resorted to using this letter as a blunt hammer with others in the embassy. Using this approach can sometimes make the collaboration process go astray. The reality is that other agencies will be more cooperative if they are asked and not ordered to implement a policy. Ambassadors should recognize and work with the reality that other agency heads have two bosses, the ambassador and their parent agency. The challenge for the modern-day ambassador is to lead not by invoking the President's letter but in a manner that helps other agencies realize it is to their best interest to follow his/her lead.

Ambassadors should create a King Arthur round table mentality where no one agency dominates, and input from all is welcome. Invoking a sense of "I'm in charge-ism" will quickly lose the cooperation. Everyone knows the ambassador has the "letter"; the challenge for an ambassador (or any other agency head if they are chairing the meeting) is never to pull out that letter to justify their authority. This is not unlike the cops with holstered guns on the street—they are most effective if they do not have to draw the revolver.

Ambassadors should create a King Arthur round table mentality where no one agency dominates, and input from all is welcome.

3) You learn more with your eyes and ears than with your mouth.

Any approach to a problem includes a strategy and a plan before acting. What is not always emphasized is the need to ensure that others have the opportunity to advance their ideas before that strategy and plan are locked in concrete. Leaders should encourage others to state their perspective before offering their own. This process is particularly important if one carries the authority of ambassador or deputy chief of mission, for others around the table might not want to offer differing points of view once those leading the meeting have voiced theirs.

4) Park your agency agenda at the door.

Sometimes people get so hung up in pushing the parochial concerns of their particular agency that they forget the larger objectives of our country. First and foremost, agency personnel

should keep the overall U.S. interest in mind as they work through various issues. This is extremely hard to do as a practical matter. One has to go no further than our Congress to witness how often a member will put a particular state's or even district's priority ahead of the broader interest of our country. How many times have we seen unnecessary and expensive weapons systems that the leadership of the Pentagon does not want foisted on them by powerful members of Congress solely because they represent jobs in their district or state? How many times have we seen our foreign aid dollar limited in its effectiveness when a "Buy American" mandate forces us to purchase a much more costly product? How can we justify our efforts to help less developed countries by using a politically driven, heavily subsidized U.S. food aid program that destroys the local market? I am not advocating people ignore their own particular agency's perspectives, however, I believe they should do their best to keep the larger objective in mind as they work through different options.

First and foremost, agency personnel should keep the overall U.S. interest in mind as they work through various issues. This is extremely hard to do as a practical matter.

5) Sweat the details: Agree on timelines and resources before adjourning the meeting.

Often interagency meeting participants argue for hours over different approaches to a difficult problem and then, in an exhausted state, adjourn the meeting once a common overall approach has been decided. Those who do not agree with the conclusions can drag out implementation endlessly if specific timelines and benchmarks are not agreed upon. Similarly, participants can make great decisions but neglect to consider where they will find the resources to implement those decisions. A great decision without the resources to implement is essentially no decision at all. If an agency does not have the proper staff to carry out any decision, it simply will not get done. Too often senior people delegate the issues of timelines and resources to others and then wonder why their decisions were never carried out.

6) Record everything.

Many interagency discussions occur where there is either no note-taker or the notes are inadequate. It is important to have a note-taker who thoroughly understands both the content and context of the discussion. Meetings recorded by stenographers who can take notes rapidly and verbatim but have no idea about the substance of the discussion often result in notes that make little sense afterwards.

During my time as an ambassador, I would ask one of my more senior people to take notes, and I would try to do likewise. Immediately after the meeting, we would compare our notes and ensure what we had recorded was an accurate and full reflection of the meeting. I would then circulate those notes to key meeting participants and request they respond by a time certain with any comments, corrections, or differences. Following these simple and, some would say, common sense steps can minimize disputes as to what was decided.

7) Share responsibility for the work.

Often, the person leading the meeting takes on the lion's share of the preparation, action, and follow-up resulting from the meeting. This is a big mistake for several reasons. First, it often results in a single agency taking on more than it can handle and as a consequence getting second-rate results. Second and even more important, failure to share responsibility for parceling out the work often results in a lack of buy-in from the other agencies. From my experience, when one agency dominates and the other players remain

silent, it may indicate the silent players have adopted a passive-aggressive attitude toward the dominant agency, and they will do little to cooperate in the implementation of the decisions made. Often the lead agency is oblivious to this resistance until it is too late to take corrective action. One additional point is that sometimes those who are to implement the policy are not included in the meetings. It is essential that they are fully briefed and made to feel part of the process.

8) Use the chain of command in both directions.

Interagency disputes should be resolved at the lowest level possible. Too often, the boss will waste scarce time and resources trying to resolve every difference when subordinates could have done so more easily. A micromanager will stifle the initiative of subordinates. Before getting involved, the more senior people should give their subordinates the flexibility and freedom to resolve disputes. Their subordinates should take the initiative by recognizing such differences and attempting to resolve them at their level. If subordinates cannot settle their differences, they should not hesitate to buck it up the chain of command for resolution. I have sometimes noticed a hesitancy to do so because it can be perceived as failure. The boss should make it clear that it is acceptable to kick a problem up the chain of command if those working it cannot resolve it expeditiously.

9) Do not over classify or hide behind a veil of secrecy.

The entire WikiLeaks episode has focused public attention on the subject of classified information. Reading the stories of many of the State Department cables that have been released, one is struck that much of what has been made public is intuitive and not particularly astonishing. What is surprising is perhaps the fact that we expected far more revelations than have emerged. Indeed, some of the cables have probably been classified at a higher level than warranted. Classification of documents is a necessary element of doing business with sensitive sources involving important issues in the U.S. government. However, it is occasionally abused in instances where some people are not permitted to be party to a discussion because they either lack the proper clearances or access to the information being considered. Sometimes this is legitimate; other times it is used as an excuse to stifle dissent or exclude people who have other perspectives from a deliberative process.

While volumes could be written about over classifying or improperly classifying information, the point is that the classification of documents should not be used to exclude those in an interagency deliberation who may not possess all the requisite clearances. Doing so is akin to turning off part of one's brain.

Interagency disputes should be resolved at the lowest level possible.

10) Wear both your own shoes and the other person's shoes simultaneously.

It is important for meeting participants, particularly those leading an interagency deliberation, to constantly stay aware of other participants' positions and the rationale for those positions. Otherwise the meetings will rapidly degenerate into a zero-sum game, and participants will focus on winning for their agencies rather than achieving the objective. Those leading the meeting must be sensitive to the positions of others in the room to avoid some leaving the room believing there may be specific outcomes, while others leave the room scratching their heads and, in the extreme, planning to sabotage the process.

Conclusion

Nothing advocated in this article is either particularly brilliant or surprising. While the purpose of this article is to share some reflections and experiences in making the interagency process work more efficiently and effectively, much of it applies equally to everyday interactions with family and friends. All of the ten points made above are intuitive, but I am struck by how many times rational, intelligent people engaging in an interagency process lose sight of the basic tenets they use on a daily basis in interactions with others.

It is my hope that these points—often learned as a result of my own failures—will be useful suggestions to help others in interagency deliberations. Although written from the perspective of one who worked for the State Department, it is intended for all who are trying to formulate and implement the most effective American foreign policy possible. ***IAJ***

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The Pursuit of Justice:

Assistance Needed to Tackle the International Criminal Court's Prevention Component

by Jason Elbert

Accountability, in form of punishment, is crucial to prevention.[1]

Don't be a bystander, don't let it happen again."[2] Henry Greenbaum, a Polish survivor of the Auschwitz Concentration Camp, gave these parting words of prevention to a small group of students from the United States Army's Command and General Staff College.[3] Greenbaum survived several years in the Starachowice ghetto, incarceration in the Buna-Monowitz subcamp of Auschwitz, and a death march toward Dachau before liberation. He endured the deaths of his mother, sisters, nieces, and nephews. Despite witnessing horrific inhumanity, he focused the group of officers on shared understanding and the prevention of genocide. He did not seek revenge. He only asked that his audience think and intervene. Unfortunately, since his liberation in April 1945, humanity has repeatedly demonstrated an inability to support Greenbaum's request.[4]

The International Criminal Court (ICC) has the potential to support Greenbaum's wish and play a vital role in the prevention of mass atrocities. For the ICC to effectively deter crimes against humanity, however, the international community must tighten the nexus between the court and its member states.[5] The United Nations (UN) must refine the international community's ability to investigate mass atrocities and unite apprehension efforts. The ICC should also leverage the complementarity provision of the Rome Statute of the ICC to supervise national court systems and prosecution. Most importantly, the international community must recognize the ICC's inability to deter genocide and mass atrocities alone. Investigations, indictments, and judicial results must support other international efforts in the prevention of mass atrocities.

This article discusses the ICC's charge to contribute to the prevention of genocide and mass atrocity and evaluates the court's ability to effectively prevent crime on an international level. Within this context, this article focuses on domestic deterrence theory, highlights several prevention

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authorities, and shapes the value of deterrence at the international level; explains the Court's organization and referral processes; examines the ICC's limitations and future potential; and provides recommendations to the UN's force structure packaging to improve success during post-conflict transition and reformation stages.

Laws seek to balance enforcement resources, risk of apprehension, and anticipated punishment to deter crime.

The Prevention Component of Criminal Law

Generally, preventative criminal law theory targets rationally-thinking, risk-adverse perpetrators presumed to fear punishment.[6] Laws seek to balance enforcement resources, risk of apprehension, and anticipated punishment to deter crime.[7] On an international stage with scarce law enforcement resources, limited funding, and potentially irrational rulers, this balance becomes problematic. Moreover, the ICC's Office of the Prosecutor (OTP) has established a narrow charging philosophy. OTP investigations seek to find "those who bear the greatest responsibility for the most serious crimes, based on the evidence that emerges in the course of an investigation."[8] In practice, this philosophy targets rulers at the highest level, crimes of extreme violence, and large victim groups.[9] Whether this focus can influence human behavior stirs extensive debate and has caused many to question the validity of the ICC.[10]

Domestic deterrence theory

At the national level, potential criminals can weigh relative risk and punishment before committing a crime. Perpetrators have a general sense of the likelihood of apprehension and the severity of future punishment. Stable court systems, the regular presence of law enforcement, and societal understanding of sentencing norms create trust in the rule of law.[11]

Sentencing philosophies generally include principles such as "rehabilitation of the accused, general deterrence, specific deterrence of misconduct by the accused, and social retribution."[12] Under classical deterrence theory, decisionmakers attempt to craft laws and strategies that will persuade individual actors to comply within the parameters of the government's resource constraints.[13] In theory, punishment will specifically deter individual recidivism and send a general message to inhibit criminal action. Factors such as certainty of punishment, severity of punishment, and a perpetrator's level of rational thinking influence judicial effectiveness.[14]

Professor James Fearon describes the domestic crime model in terms of a decision point.[15] Assuming the perpetrator is a rational decisionmaker, he makes a decision at the time of the crime knowing the risk of apprehension and likelihood of punishment.[16] The risk of increased punishment decreases the likelihood of future misconduct.[17] Therefore, law must outweigh criminal incentives with the risk of apprehension and the cost of punishment. Even at the domestic level, deterrence does not work alone. Deterrence supports the other sentencing philosophies and institutional methods to prevent crime.[18] Unfortunately, the effects of criminal convictions are often hard to measure, and justification for deterrence theory grows tenuous on the international stage. Despite criticism, however, the role of judicial deterrence in the prevention of mass atrocities remains a critical element across the international community.[19]

Prevention authorities

The international community and the ICC echo a focus on the prevention of genocide and mass atrocities.[20] Then UN Secretary General Kofi Annan addressed the importance

of the ICC's prevention component at the Rome Statutes inception stating: "We hope [the ICC] will deter future war criminals and bring nearer the day when no ruler, no state, no *junta*, and no army anywhere will be able to abuse human rights with impunity."[21] The preamble to the Rome Statute recognizes the prevention purpose as well: "The States Parties to this Statute …Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes…Have agreed as follows…." Although the effectiveness of the international community and the ICC's ability to prevent genocide and mass atrocities is rightfully under question, the rhetoric of its importance is clearly outlined in national policy and international agreement.[22] Somehow, national and international courts must support the prevention goal through criminal prosecution.

International prevention potential

Perhaps to truly prevent genocide, all people everywhere must act. As Greenbaum requested, we must not watch—we must intervene in some way. Certainly, to bring the idea of "never again" to fruition, all people must adhere to certain principles. The rule of law must encourage those values. During the 2015 Command and General Staff College Ethics Symposium, General (Retired) Carter Ham asked the student body to personally ask, "Do I possess the moral courage to make the hard ethical choice, or is it someone else's job?" People surrounded by atrocity face the same dilemma.

Apprehending and prosecuting a high-level head of state, government official, or senior military commander will not prevent future genocide by itself. Instead, prevention requires the international community to educate one another and instill a sense of unity against acts intended to destroy national, ethnical, racial, or religious groups.[23] That unification must reach heads of state. It must also permeate individual actors across the world.

The politician must advocate against, the lawyer must reject implementation of, and the police must refuse enforcement of laws intended to destroy national, ethnical, racial, or religious groups. The media must accept all groups and prevent genocidal propaganda. The military leader must defend the weak. The soldier must refuse unlawful orders. The neighbor must reject economic advantages, risk their own safety with noncompliance, and shelter friends. In order to truly prevent genocide and mass atrocity, people at all levels of life across all nations must unify. This requirement is difficult and often requires personal sacrifice and risk.[24] Prosecution of crime cannot create change alone.

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Although the ICC's effectiveness has come into question since the Court's 2002 inception, ICC investigation, indictment, and conviction must play a role in the evolution of global prevention. It is designed to represent a permanent judicial presence across the international community. The Court's permanence sends a message to perpetrators. The international community recognizes that certain "grave crimes threaten the peace, security, and well-being of the world," and that it will break the veil of impunity under certain conditions.[25]

Prior to the Rome Statute, the international community relied on *ad hoc* tribunals to address prosecution of genocide and mass atrocity. International tribunals such as the World War II Nuremburg trials, the International Criminal Tribunal for the former Yugoslavia (ICTY), and the International Criminal Tribunal for Rwanda (ICTR) receive criticism as merely reactive

courts.[26] The international community establishes these courts to stigmatize war criminals and bring a sense of resolution to a specific time and territory *ex post facto*.[27] Although these tribunals bring hope of influence and deterrence, they are incapable of acting during an ongoing conflict.

The ICC brings the possibility of in-conflict justice and a more realistic venue to pierce the veil of impunity and prevent genocide.

The ICC brings the possibility of in-conflict justice and a more realistic venue to pierce the veil of impunity and prevent genocide.[28] Its permanent nature provides an enduring threat of punishment to perpetrators, complementary influence, and warrant authority. The OTP opens the possibility of quick response.[29] It may remove authority from perpetrators by issuing warrants and indictments. Ideally, the ICC creates an immediate deterrence effect across the international community. In theory, the OTP's ability to act quickly without the UN Security Council's political delay cultivates this deterrence. In practice, however, the ICC structure and political dynamics often delay its response.[30]

International Criminal Court Overview

United States military practitioners often have a cautionary response to the idea of ratification of the Rome Statute. Despite concerns for international jurisdiction over soldiers, military leadership should understand the basic makeup and operation of the ICC.[31] As the U.S. military draws down and relies more heavily on coalition partners, it might find itself operating to assist court operations by modifying missions to conform to ICC precedent or subject to Security Council resolutions related to an ICC investigations.[32] Military leaders might find that ICC investigatory authority or prosecution may best support mission accomplishment.

The ICC is composed of the Presidency, the Chambers, the Registry, and the OTP.[33] Another body, the Assembly of States Parties (ASP), oversees court actions.[34] The ASP monitors the OTP most closely. Arguably, the effectiveness of the OTP, which directs the scope of prosecutorial investigations and makes charging decisions, relates most directly to ICC's ability to assist in the prevention of genocide and mass atrocity.

The Presidency consists of three judges serving three-year terms.[35] It maintains overall function and administration of the entire Court except for the OTP, which operates independently. The Chambers house eighteen other judges that hold the responsibility of conducting the Court's legal proceedings. Pre-trial, trial, and appeal divisions make up the Chambers. The Registry performs as the non-judicial head of the Court's administrations. Finally, the independent OTP manages investigations and case processing. Depending on the situation and referral authority, the OTP has significant discretion regarding the scope of each investigation, the individuals charged, and crafting appropriate charges.[36]

Criminal referral and authority

Article 5 of the Rome Statute limits ICC subject- matter jurisdiction to genocide, crimes against humanity, war crimes, and crimes of aggression.[37] Based on one of three triggers, the OTP may open a preliminary investigation examining whether these four crimes have arisen in a particular conflict situation. A state party may refer a situation to the OTP, the UN Security Council may refer a situation, or the Prosecutor may decide to initiate a preliminary examination using *propiro muto*. Additionally, to initiate the preliminary investigation, the OTP must have jurisdictional authority.[38]

The OTP holds jurisdictional authority over

state parties to the Rome Statute, states that independently accept the Court's jurisdiction, and states involved in situations referred by the UN Security Council. This authority applies to crimes committed within the borders of a state subject to the Court's jurisdiction and national citizens of states subject to jurisdiction.[39] Once a situation is triggered and referred to the OTP, the OTP goes through a four-phased preliminary investigation analysis before investigating the situation completely and creating a case—concrete incidents and specific suspects that emerge from the investigation of a particular situation or conflict":[40]

- Phase 1, the OTP conducts an initial assessment of all information received by the Court and filters out situations clearly outside of the ICC's jurisdiction.[41]
- Phase 2, the OTP solidifies the jurisdictional analysis by evaluating issues of geographical and personal jurisdiction. It also assesses whether the referral contains evidence of crimes within the ICC's limitations.[42] Phase 2 culminates with the formal commencement of a preliminary investigation.
- Phase 3 addresses the principles of complementarity and gravity. As the OTP evaluates whether there is reasonable basis to initiate an investigation, it considers the situation's positive complementarity and gravity.[43]

  – First, the ICC is intended as a court of last resort. It should complement national court systems when national systems are "unwilling or unable" to prosecute a crime.[44] Before the ICC initiates a complete investigation, this threshold must be met.[45] Additionally, the ICC can generate prevention through encouragement of complementarity. ICC involvement and cooperation should assist in the development of national court systems.

  – Second, gravity attempts to focus the Court on the most serious crimes of international concern.[46] Unfortunately, gravity "remains a vague expression, referenced throughout a multitude of situations."[47] Pretrial Chamber 1 explained that crimes were evaluated on how "systematical or large-scale" they were conducted.[48] The OTP must also balance complementarity with the overarching "independence, impartiality, and objectivity" requirements of the Rome Statute.[49]
- Phase 4 informs an OTP determination based on these concepts on whether a reasonable basis exists to initiate an investigation in the interest of justice.[50]

...the ICC is intended as a court of last resort.

The determination that a reasonable basis exists prompts an investigation and OTP communication with the Pretrial Chambers. Evidence from the investigation assists in the formation of charging decisions and decisions to issue arrest warrants.[51] In practice, the OTP has received broad discretion regarding investigations and crafting criminal charges.

Article 5 limits jurisdiction to the "most serious crimes of concern to the international community." The 2009–2012 OTP investigation and charging strategy targeted "only the upper echelon perpetrators . . . specifically those ordering, financing, or organizing crimes."[52] Fatou Bensouda, who replaced Moreno-Ocampo as Chief Prosecutor in 2012, has not drastically altered the OTP's small investigation team and targeted-charging strategy.[53] Arguably, charges

should conceptualize the totality of the atrocities by selecting a representative sample of crimes depicting the gravest aspects of the perpetrator's actions.[54] The charges should spring from a comprehensive investigation, so the prosecutor can explain the entirety of the violations through targeted-charging decisions. The Court has been unable to effectively implement this theory because of budgetary, time, investigatory, and sovereignty constraints.

Limited resources, compressed timeline expectations, and the OTP strategy often limit the Court's ability to adequately capture incidents through charging.[55] Rather than investigating all aspects of a situation, the prosecutor tends to focus investigations on individuals and quickly provable crimes. For example, the scope of OTP charges against several individuals involved in situations in the Democratic Republic of Congo appeared limited.[56] Charges against Thomas Lubanga Dyilo addressed only child soldier crimes and those against Matheiu Ngudolo centered on an isolated attack on a single village.[57] Limiting the nature of investigations and scope of charging decisions may impede the ICC's ability to deter future criminal behavior.[58] In order achieve deterrence, the Court must create a thorough historical record of criminal behavior matched with justified convictions and sentencing decisions.

In over ten years of practice, the ICC has not uniformly convinced the international community of its single-handed prevention capability.

ICC Effectiveness and Limitations

In over ten years of practice, the ICC has not uniformly convinced the international community of its single-handed prevention capability. More realistically, the ICC provides an ancillary tool necessary to eliminate impunity, stir debate, and aid in the prevention of mass atrocities.[59] As one scholar explains:

> The prevention of serious international crimes is unquestionably one of the Court's ancillary objectives. However, this goal should not be confused with the ideas of specific and general deterrence . . . [f]or the Court, the notion of deterrence as a component of the prevention of international crimes would be a misguided.[60]

As military leaders consider the value of the ICC using its investigation component or aligning with member states, they should consider the ICC's usefulness as well as its obstacles.[61] This next section discusses some of the legitimacy concerns surrounding the Court and then addresses the Court's potential to promote genocide and mass atrocities prevention.

Legitimacy Concerns

The overall legitimacy of the ICC raises the first international concern. In practice, it has demonstrated a responsive nature much like the *ad hoc* tribunals.[62] The ICC has completed three trials all related to a situation in the Democratic Republic of Congo.[63] On March 14, 2012, the Court convicted Thomas Lubanga Dyilo of "conscripting and enlisting children under the age of fifteen years and using them to participate actively in hostilities."[64] After a three-year trial, Lubanga received a fourteen-year sentence. The second completed case closed in December 2012 and acquitted Mathieu Ngudjolo Chui. The third case, closed on March 7, 2014, convicted Germain Katanga for crimes committed in 2003.[65] Katanga received a twelve-year sentence for murder, sexual slavery, and using children under fifteen to participate in hostilities.[66]

The OTP currently has 24 open cases from 11 investigated situations.[67] The open cases address incidents in Uganda, the Democratic

Republic of Congo, Darfur, the Central African Republic, the Republic of Kenya, Libya, the Ivory Coast, Mali, Georgia, and Burundi. Of the 40 indicted perpetrators, the Court has control over 7. The OTP has labeled 11 defendants as "at large" or "not in ICC custody." Additionally, the Court has dismissed and withdrawn cases against several perpetrators.[68] Great debate centers on the ICC's legitimacy because it does not give the international community a quick responding, prevention tool.

To reach these results, the Court expended an annual budget of approximately $36.98 million.[69] This cost has yielded an acquittal and two relatively low sentences. Moreover, the crimes charged depict a relatively small scope of the actual atrocity committed in each case.[70] Arguably, these high cost results will not deter future crime, fail to create a criminal history, and do not educate on the legal significance of committing crimes against humanity.

The OTP's focus on heads of state has also drawn legitimacy criticism.[71] "Wars are started only on the theory and in the confidence that they can be won."[72] "Personal punishment, to be suffered only in the event that the war is lost, will probably not be a sufficient deterrent to prevent a war where the warmakers feel the chances of defeat are negligible."[73] Although "masterminds of crimes against humanity tend to be rebel leaders, government officials, or military commanders," criminal focus on limited, high-ranking state leaders has not demonstrated deterrence.[74] For example, world events after sentencing of state officials in the ICTY and ICTR suggest minimal influence on officials in Sierra Leon, Chechnya, East Timor, or Darfur.[75]

Many suggest that deterrence theory should not apply on the international level to irrational rulers.[76] The state leader will not rationally calculate risk, nor fear arrest, trial, or punishment. Even if the ruler does make a calculation, the presence of the ICC may not achieve the desired deterrence.[77] For example, fear of the ICC's authority or apprehension may cause the leader to continue bad acts to prolong impunity. The Court's involvement may give the leader incentive to continue crimes against humanity. The ICC could also present a jurisdictional choice that may provide safe haven and limited punishment. The perpetrator might find protection from adversaries under the Court's authority. Moreover, the Rome Statute limits sentencing to "30 years imprisonment or a sentence of life imprisonment in conformity with article 77."[78] Comfortable confines at The Hague prison are a better option than a possible death sentence or the continued fear of being targeted. These factors may give a perpetrator incentive to continue atrocities until it is worthwhile to subject himself to the Court's authority.

Great debate centers on the ICC's legitimacy because it does not give the international community a quick responding, prevention tool.

To demonstrate the potential negative influence of the Court, James Fearon cites conflicts in Kenya and Sudan. In Kenya, Fearon advocates that the government had capacity to prosecute, but that referral of the situation to the ICC prior to Kenya's 2007–2008 elections delayed arrest and allowed criminal officials to participate in the elections. In Sudan, the ICC fosters a "peace versus justice debate."[79] The international community must struggle with a particular outcome: criminal justice or reducing violence through diplomacy with a bad ruler.[80] Omar al-Bashir, a bad man, may have the political influence to calm his nation.[81] The international community's dilemma handling Sudan and Omar al-Bashir provides an example of the friction between conflict termination and criminal justice.

The inability to enforce decisions through apprehension compounds the ICC's ability to sway irrational rulers. The ability to quickly investigate and issue incapacitating warrants against perpetrators could greatly assist in the prevention of genocide and mass atrocities. Unfortunately, the ICC does not have a law enforcement mechanism without the cooperation of the Assembly of State Parties.[82] Under the Rome Statute, state parties must apprehend warranted perpetrators within their territories and turn them over to Court authority.[83] In practice, however, this agreement often fails. For example, Joseph Koney, the Commander and President of the Lord's Resistance Army, has been a fugitive since 2005.[84] Similarly, al-Bashir has moved throughout Africa under warrant since 2009, and Muammar Gaddafi avoided apprehension until his death.[85]

The inability to enforce decisions through apprehension compounds the ICC's ability to sway irrational rulers.

Despite the current apprehension challenges, cooperation of the ASP and enforcement support from the UN Security Council could drastically improve the success of the ICC's ability to incapacitate perpetrators and bring them to justice. In turn, the court may find improved legitimacy and deterrence power.

Harness a Force to Strengthen Prevention and the International Criminal Court

Although the operation of the ICC is ripe with problems, it provides a stable system and process the international community needs as part of its genocide prevention effort. The ICC prevention component is not a stand-alone solution, however. To prevent mass atrocities and genocide, the international community must come together to educate, implement, and enforce preventative measures.

The international community's future focus should consider a force structure able to manage periods of transition, reformation, and peace, post-conflict. A tailorable organization that includes an array of experienced partners managing interagency operations to "win the peace" would assist the ICC. What Thomas Barnett, a Pentagon strategic planner, describes as the "sysadmin force" could strengthen several ICC foundations.[86] It could advance the deterrence value of ICC-driven investigations, create legitimacy in the Court's warrant/apprehension function, and increase complementarity value through quasi-criminal jurisdiction.

Thomas Barnett in his TED Talk video, "Let's Rethink America's Military Strategy," advocates for a shift in U.S. military strategic-force management structure. He bifurcates conflict management into a "front half" and a "back half." In the front half, what military members generally think of as armed conflict, he argues for a small aggressive "leviathan" force. He describes this force as "your father's military"—young, trigger happy, and with a chip on its shoulder. The leviathan force is associated with the "M" in the DIME (diplomacy, infrastructure, military, and economics) construct. In Barnett's model, the back half sysadmin force structure targets transitional and peace operations, post armed conflict. It should include a wide array of partners available, interagency operations, and older experienced personnel.[87]

Barnett connects his force structure recommendation to the ICC in terms of timing and jurisdiction. On his timeline, post conflict or organizations favor "great power," "international reconstruction," and justice through the ICC. Barnett argues for more expansive rules of engagement under the leviathan force and opposes ICC's jurisdictional control. Post

conflict, however, he explains that the ICC must have authority over the sysadmin force to bring legitimacy to the force's rebuilding and peace missions.[88]

The international community should adopt Barnett's force structure to prevent genocide. Modifying his structure with investigatory teams, law enforcement/security assets, and judicial reform experts will assist with genocide and mass atrocity investigations, apprehension of state officials under warrant, and monitoring of the ICC's complementarity principle. The altered force structure creates a means of viable enforcement. The sysadmin force structure recognizes the importance of combining organizations under one leadership configuration to unify action. This approach is particularly important while seeking the deterrence of genocide and mass atrocity.

A 2015 study conducted by Geoff Dancy and Florencia Montal finds statistical proof of the deterrence value of ICC investigations.[89] Their article recognizes the ICC's growing pains, miscalculations, resource shortfalls, and legitimacy concerns, but finds potential in the consequences of unintended positive complementarity.[90] The article certifies the theory that states want to act properly when the world is watching.[91] In fact, states want to act first to avoid the international community's involvement in their sovereign affairs.[92] The mere initiation of an ICC preliminary investigation creates positive complementarity. States begin to implement systems to investigate and prosecute mass atrocity crimes at the national and local levels.[93]

Although state intentions are not always aligned morally with humanitarian efforts, the article clearly demonstrates that international investigations impact the domestic treatment of genocide and mass atrocity crimes.[94] An international sysadmin-type force structure and coalition could leverage the positive complementarity aspect of the ICC. A force structure including strong investigatory assets, resources, judicial reform experts, and rule of law teams could assist under- developed states improve domestic justice to reach a higher deterrence rate. The ICC's OTP investigatory teams could play a role in this force structure as well. Cooperative involvement would expand the ICC's investigatory resources, scope, and legitimacy. Most likely, the force structure and partnership would also improve trial results and the Court's political partnership with the ASP.

If the international community intends to rely on justice as a component of prevention, repeated success capturing and prosecuting criminal heads of state could create deterrence.

Coalition formation of a sysadmin force would likely include security elements. Specialized law enforcement organizations or special operations assets could help limit the impunity of criminal leaders by strengthening the Court's apprehension function. The coalition force could "eliminate the criminal's capacity to commit crimes, by removing that individual from society."[95] Certainly, apprehending a single individual does not solve the complexity problem of genocidal actions. Acts of mass atrocity rely on the work of many. Moreover, organizations that do not rely on a bureaucratic structure of power may quickly replace leadership or simply shift capability to a strong section of the organization. But, the removal of key perpetrators may be a necessary start. Genocide is often associated with "strong, centralized authority and bureaucratic organization."[96] If the international community intends to rely on justice as a component of prevention, repeated success capturing and prosecuting criminal heads of state could create deterrence. A sysadmin force structure could cultivate cooperation among coalition partners,

the ASP, and the ICC to improve enforcement efforts by creating a "condition of habitual lawfulness."[97]

The Court could even leverage U.S. assets in this effort. For example, the changes to the State Department's award program demonstrate government support to enforcing ICC arrest warrants.[98] Likewise, the U.S. renewed its commitment to bring LRA leadership to justice.[99] Even without U.S. ratification of the Rome Statute, leveraging cooperation and assets could help bring credibility to the Court and increase its deterrence capability. Creating a standing UN-based, sysadmin force structure could persuade more consistent involvement from the U.S. and other influential states.

To create deterrence, all people must understand the severity of genocide and its punitive consequences.

The ability to reach beyond state leadership is also critical to the ICC's ability to positively influence prevention. To create deterrence, all people must understand the severity of genocide and its punitive consequences. After World War II, the Nuremberg trials selected a cross section of Nazi leadership to demonstrate the array of agencies criminally responsible for the Holocaust. Still, the Holocaust Memorial Museum addresses the "quest for justice" with some hesitation:

> [C]ommandants, leaders of mobile killing squads, and physicians who carried out sadistic medical experiments on living camp inmates—were sentenced with relative severity. But other groups, including industrialist and high-ranking bureaucrats, received only prison sentence, or no penalty at all.

The ICC attempts to reach individual bystanders though the concept of complementarity jurisdiction.[100] As the ICC's first prosecutor, Luis Moreno Ocampo, proclaimed during his first term, "the absence of trials before this Court, because of the regular functioning of national institutions, would be a major success."[101]

The Court should stretch its complementarity role to include "quasi-criminal jurisdiction" similar to the role played by the Inter-American Court of Human Rights.[102] Although the Inter-American Court is not a criminal court, it influences deterrence through supervision, investigatory advice, and suggesting case-related, analytical connections.[103] This model uses a supervisory court structure to sway investigation scope and future prosecutions. If states do not comply, the supervisory court may object and attempt to influence action. Much like the ICC, however, the Inter-American Court must ultimately defer to domestic operations. It operates mainly on trust and cooperation, which presents challenges such as unity of effort and purpose across international, state, local, and individual levels.

The ICC could create quasi-criminal jurisdiction by operating under an expanded reading of the Rome Statute's "unwilling or unable to genially carry out the investigation or prosecution" requirement.[104] The ICC could use a broad interpretation of "unwilling or unable" to encourage investigatory strategy, judicial reform, and prosecution. This could be as simple as requiring the adoption of the Rome Statute and criminal elements under state law or as detailed as monitoring charging decisions and trial strategy. Again, the sysadmin force could provide the capability to foster local justice, develop sentencing consistency, and support reform. The UN in cooperation with the ICC could package a force, implement its expertise locally, and aid rule of law systems.

Although not perfect, the sysadmin force creates a means for the international community to respond globally in pursuit of genocide and

mass atrocities prevention. Its capability and implementation require high levels of cooperation from the international community; however, the concept could provide an outside check on the ICC and persuade involvement by some of the international community's influential powers that have not ratified the Rome Statute.[105] More importantly, it provides a resource to increase domestic-level understanding and the judicial processing of genocide and mass atrocities.

Conclusion

Acting alone, the ICC will not grant Greenbaum's wish. People will remain bystanders unless they understand the consequences of mass atrocity crimes on a personal level. The OTP's inability to thoroughly investigate situations, apprehend criminal leaders, and persuade international judges to issue severe sentences limits the ICC's deterrence capability. The prevention discussion must include the Court, improving domestic courts, and array of other actors. On an international level, genocide prevention must start with unified cooperation from the members of the UN and the ASP. The international community must dedicate the appropriate resources to expand the scope of investigations, apprehend perpetrators, aid national rule of law systems, and continue education on the prevention of genocide and mass atrocities. ***IAJ***

NOTES

1 Samuel Totten, *The Prevention and Intervention of Genocide*, Transaction Publishers, Piscataway, NJ, 2008, p. 258 (quoting a 2005 statement from Juan E. Mendez).

2 Henry Greenbaum, "How Does Genocide Affect the Individual?" lecture, United States Holocaust Memorial Museum, Washington, April 10, 2015.

3 Ibid.

4 For example, international tribunal investigations into situations into Sudan (Darfur), Rwanda, Libya, and Uganda. "All Situations," International Criminal Court, <http://www.icc-cpi.int/en_menus/icc/situations%20and %20cases /situations/Pages/situations%20index.aspx>, accessed on April 28, 2015.

5 Dr. Tomer Broude, "Prevention Question," International Criminal Court Forum, <http://iccforum.com/prevention>, accessed on April 28, 2015.

6 Kenneth Anderson, "Prevention Question," International Criminal Court Forum, <http://iccforum.com/prevention>, accessed on April 28, 2015.

7 Ibid.

8 Henry M. Jackson School of International Studies, *The International Criminal Court: Confronting Challenges on the Path to Justice*, Task Force report, 2013, University of Washington, p. 69, <https://digital.lib.washington.edu/researchworks/>, accessed on April 27, 2015.

9 Ibid.

10 See generally, Henry Jackson School of International Studies Task Force 2013. See also, James Fearon, "Deterrence and the ICC," lecture, University of California Los Angeles, Los Angeles, CA, January 22, 2013, <http://iccforum.com/forum/deterrence-lecture>, accessed on April 27, 2015.

11 Likewise, U.S. military commanders rely on prevention and deterrence to instill good order and

discipline within their formations. Soldiers understand categories of misconduct that result in reprimand, non-judicial punishment, or the more serious scrutiny of the court-martial process. Manual for Courts-Martial, Article 15, Uniform Code of Military Justice, 2012.

12 Manual for Courts-Martial, R.C.M. 1001.

13 James Alexander, "The International Criminal Court and the Prevention of Atrocities: Predicting the Court's Impact," *Villanova Law Review*, Vol. 54, 2009, p. 2.

14 Ibid., p. 11.

15 Fearon.

16 Ibid.

17 Ibid.

18 Alexander, p. 9. This domestic model, prevention and its deterrence component, formulates a key foundation for international criminal justice.

19 Ibid. In 2006, the U.S. National Security Strategy (NSS) explicitly stated that, "genocide must not be tolerated." "It is a moral imperative that states take action to prevent and punish genocide." The 2010 U.S. NSS again recognized the responsibility to prevent genocide and mass atrocities. "The United States is committed to working with our allies, and to strengthening our own internal capabilities, in order to ensure that the United States and the international community are proactively engaged in a strategic effort to prevent mass atrocities and genocide." On August 4, 2011, President Barrack Obama reaffirmed the policy of prevention by directing Presidential Study Directive-10. "Fact Sheet: President Obama Directs New Steps to Prevent Mass Atrocities and Impose Consequences on Serious Human Rights Violators," The White House, President Barrack Obama, August 4, 2011, <https://www.whitehouse.gov/the-press-office/2011/08/04/fact-sheet-president-obama-directs-new-steps-prevent-mass-atrocities-and>, accessed on April 27, 2015. In his directive, President Obama recognized preventing genocide as a "core national security interest" and a "core moral responsibility."

20 Geneva Convention of 1948, Convention on the Prevention and Punishment of Genocide.

21 Alexander, p. 10.

22 Edward Luck, "The United Nations and the Responsibility to Protect," *Policy Analysis Brief*, The Stanley Foundation, August 2008.

23 Geneva Convention of 1948.

24 See generally, Dan Bar-On, "The Bystander in Relation to the Victim and the Perpetrator: Today and During the Holocaust," *Social Justice Research*, Vol. 14, No. 2, June 2001.

25 Rome Statute of the International Criminal Court, UN Doc. A/CONF. 183/9, 2187 U.N.T.S. 90, July 17, 1998, entered into force July 1, 2002, (hereinafter Rome Statute), preamble.

26 Philipp Kastner, "The ICC in Darfur-Savior or Spoiler?" *ILSA Journal of International and Comparative Law*, Vol. 14, Fall 2007, pp. 145–153.

27 Ibid., pp. 152–153.

28 Ibid., 153–155.

29 Ibid., p. 154.

30 Michael Newton, "The International Criminal Court," lecture, Genocide and Mass Atrocities Studies Seminar, Command and General Staff College, Fort Leavenworth, KS, April 21, 2015. Professor Newton described five levels of politics within the ICC: (1) within the structure of the Rome Statute, (2) politics behind the prosecutors use of discretion, (3) the operation of the Assembly of States Parties, (4) displayed in the tensions between court chambers, and (5) the politics of personality within individual actors.

31 "Prevention Question," International Criminal Court Forum, <http://iccforum.com/prevention>, accessed on April 28, 2015.

32 See generally, Michael Newton, "Charging War Crimes: Policy and Prognosis from a Military Perspective," *Vanderbilt University Law School Public Law and Legal Theory*, Working Paper Number 14-6.

33 Rome Statute, Article 34.

34 Henry Jackson School of International Studies Task Force report, 2013, pp. 13–18.

35 Ibid.

36 Ibid.

37 Rome Statute, Article 5; see also, Roman Statute Elements of Crimes.

38 Rome Statute, Article 12.

39 Rome Statute, Article 12; see also, Newton, "Charging War Crimes: Policy and Prognosis from a Military Perspective," (arguing how the ICC should enforce Status of Forces Agreements if the Court would otherwise have jurisdiction over an individual but for the agreement).

40 Henry Jackson School of International Studies Task Force report, 2013, p. 7.

41 Ibid., p. 4.

42 Ibid.

43 See generally, Henry Jackson School of International Studies Task Force report, 2013, "Internal Factors Impacting Situation Selection," (using "positive complementarity" to describe the ICC's ability to positively influence the national court system into functioning and prosecuting more crimes of genocide and mass atrocity at the national level).

44 Ibid.

45 Ibid.; Rome Statute, Article 17.

46 Henry Jackson School of International Studies Task Force report, 2013.

47 Ibid., p. 20.

48 Ibid.

49 Ibid.

50 Ibid., p. 14.

51 Rome Statute, Articles 53 and 58.

52 Henry Jackson School of International Studies Task Force report 2013, p. 62.

53 Ibid.

54 Ibid., p. 70.

55 Ibid.

56 Ibid.

57 Ibid., pp. 74–75.

58 Ibid., p. 74.

59 Broude. "Crime prevention should rather be understood as a much broader, systemic and long-term concept." Critics of the ICC must consider its value in work in conjunction with actions taken by states, intergovernmental organizations, and civil society and evaluate whether, over time, those efforts will lead to a global reduction in crime.

60 Ibid.

61 Newton. During his lecture, Newton suggested that responding to crimes against humanity should become a core military competency.

62 Ibid. Newton discussing how limited jurisdiction and post conflict action undercut deterrence.

63 International Criminal Court, "All Situations," <http://www.icc-cpi.int/en_menus/icc /situations%20 and%20cases/situations/Pages/situations%20index.aspx>, accessed on April 28, 2015.

64 Ibid.

65 Ibid. Congolese authorities surrendered Katanga to the ICC in October 2007.

66 Ibid.

67 Ibid.

68 Ibid. The ICC has publicly indicted 40 people. The ICC has issued arrest warrants for 32 individuals and summonses to 9 others. Proceedings against 48 are ongoing: 9 are at large as fugitives, 2 are under arrest but not in the Court's custody, 16 are in the pre-trial phase, and another 11 are at trial. Proceedings against 14 have been completed: 9 have been convicted, 1 has been acquitted, 6 have not been confirmed, 3 have been terminated, and 2 have died before trial. See also, Henry Jackson School of International Studies Task Force report 2013, p. 64.

69 Henry Jackson School of International Studies Task Force report, 2013, p. 64. The budget increased by 1.04 percent in 2012 and has since dealt with a zero-growth budget.

70 Compared to the spending and conviction results of the ad hoc tribunals, the ICC spends far more to process a small amount of atrocity crimes. Alexander, pp. 38–39 (assigning a cost per conviction at the ICTY of approximately $11.1 million and $13.9 million at the ICTR).

71 Henry Jackson School of International Studies Task Force report, 2013, p. 29.

72 International Criminal Court, "All Situations."

73 Totten.

74 Alexander, p. 23; Kastner, pp. 150–152.

75 Kastern, pp. 151–152.

76 Fearon.

77 Ibid.

78 Rome Statute, Article 76

79 Alexander, p. 30; Kastner, pp. 145–163.

80 Fearon.

81 Ibid.

82 Rome Statute, Article 59.

83 Ibid.

84 International Criminal Court, "All Situations."

85 Ibid.

86 Thomas Barnett, "Let's Rethink America's Military Strategy," lecture, TED Talks, February 2005, http://www.ted.com/talks/thomas_barnett_draws_a_new _map_for_peace?language=en>, accessed on April 27, 2015.

87 Ibid. The partners available should include cooperation of organizations like the Department of State, Department of Justice, U.S. Agency for International Development, emergency relief organizations, nongovernmental organizations, and private organizations. It could be akin to a whole government approach under a single leadership chain.

88 Ibid.

89 Geoff Dancy and Florencia Montal, "Unintended Positive Complementarity: Why International Court Investigations Increase Domestic Human Rights Prosecutions," <http://tulane.edu/liberal-arts/political-science/upload/Dancy-Montal-IO-2014.pdf>, accessed on April 27, 2015.

90 Ibid.

91 Ibid.

92 Ibid.

93 Ibid.

94 Ibid., pp. 34–35. States may feign willingness to cooperate with the ICC. For example, Uganda attempts to persuade the ICC that its court system is strong enough to handle mass atrocity crimes internally with strong evidence suggesting otherwise. Kenya, another example, demands reform, but lacks the capacity to create a solution.

95 Alexander, p. 23.

96 Frank Chalk and Kurt Jonassohn, *The History and Sociology of Genocide Analyses and Case Studies*, Yale University Press, New Haven and London, 1990.

97 Alexander, p. 26 (quoting Akhavan).

98 Henry Jackson School of International Studies Task Force report, 2013, p. 174; International Criminal Court, "All Situations."

99 Henry Jackson School of International Studies Task Force report, 2013, p. 174.

100 Rome Statute, Article 1.

101 Alexandra Huneeus, "International Criminal Law by Other Means: The Quasi-Criminal Jurisdiction of the Human Rights Courts," *American Journal of International Law* Vol. 107, January 2013, p. 21.

102 Ibid., 9–13.

103 Ibid., p.11.

104 Rome statute, Article 17.

105 Newton, "The International Criminal Court," lecture (explaining the basis of the United States was unwillingness to ratify the Rome Statute). The United States defines checks and balances much differently than most of the international community. It requires an outside organization such as the United Nations Security Council to serve as a check instead of relying on statutory checks within an organization.

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Private Military and Security Companies in Armed Conflict

by Kenneth A. Segelhorst

In war-torn countries around the world, thousands of rough men stand ready to do violence on behalf of those unable or unwilling. They are equipped with the most advanced military technology available: assault-rifles with holographic and laser sights, night vision goggles, body armor, and encrypted radios. They maneuver through war zones in a wide array of armored trucks, helicopter gunships, and high-speed attack boats to accomplish their missions. These grisly men with their beards, dark sunglasses, and civilian clothing give off the hint of some elite special operations unit. Only these men are not soldiers, at least not in the traditional sense. They are contract warriors—soldiers for hire, employed by a legitimate business with a new take on an age-old profession. The modern private military and security industry emerged in the aftermath of the Cold War and has grown into an extremely lucrative and competitive market. This article will examine the history behind the private military and security industry, the business model these companies use, and the benefits and issues related to employing these shadowy companies in modern conflicts.

"Soldiers for Hire"

To fully understand modern privatized warfare, one must first have a firm understanding of its history. The employment of mercenaries for armed conflict is perhaps as old as war itself. Throughout time, there have always been individuals willing to take up arms and wage war in exchange for financial gain. The proverbial "soldier for hire" has fought for armies around the world, from the Greeks and Romans of antiquity to the T'ang and Sung dynasties of ancient China. In some instances, states have sponsored the privatization of warfare, while in other cases private entities served as employers.

The first organized mercenary companies emerged in medieval Europe. Kings and their

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military leaders realized that the feudal system was inadequate to raise, maintain, and command an efficient and effective military force. Feudal lords routinely turned to mercenaries, both foreign and domestic, to supplement their poorly trained conscripts and fulfill their military manpower requirements. Although individual mercenaries widely sold their services throughout Europe, organized bodies of mercenaries gradually emerged as the market in Europe developed.[1] The earliest known organized body of mercenaries in Europe was the Varangian Guard, with Varangian meaning, "a foreigner pledged to the service of a new lord" in Old Norse.[2] Originally comprised of Vikings from modern day Sweden, the Varangians were elite warriors. The Varangians first sold their services to the Byzantine Empire in 839 CE, providing a modest number of paid soldiers to protect Constantinople. The Varangians quickly won favor with the Byzantine emperor, who selected Varangian mercenaries as his personal bodyguards. By 988 CE, the Varangians had developed into a formally-organized mercenary army. Known and respected as prized soldiers, the Varangian Guard provided both offensive and defensive services throughout Europe. In exchange for their services, guardsmen received salaries far exceeding those of normal soldiers, as well as an ample share of the spoils of war.[3]

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A later example highlights some negative aspects of privatized warfare in medieval Europe. The Great Company, founded by Werner von Urslingen in 1342, was one of Europe's first large, tightly-organized, and well-armed mercenary companies. Comprised primarily of Italian, German, and French mercenaries, the Great Company saw employment throughout southern Europe from 1342 to 1379. At its peak strength in 1359, the company boasted over 20,000 soldiers for hire, most of them armored cavalry. With the Great Company possessing such military might, employers had difficulty controlling the organization on and off the battlefield. In battle, the Great Company's mercenaries fought ruthlessly, ignoring the time-honored principles of chivalry and honorable conduct on the battlefield, often to the dismay of their employers. Off the battlefield, questions arose regarding the Great Company's trustworthiness. In one instance, the Great Company turned against its employer, highlighting the question of loyalty with regard to employing mercenaries.[4]

Despite the potential dangers associated with mercenary groups such as the Great Company, leaders continuously turned to "free companies," as they came to be known, as a source of military might. For nearly two centuries leading up to the Renaissance, the Italian city-states were entirely dependent on contracted companies of soldiers, known as the condottieri, for security and representation on the battlefield.[5] To prevent issues like those experienced with the Great Company, the Italian city-states developed an elaborate contractual structure and required mercenaries to live according to an established code of conduct. Contracts fell into one of three categories:

1. *Condotta a soldo disteso* was a contract between a mercenary and native-born Italian general, under whose command the condottieri served.

2. *Condotta a mezzo soldo* was a contract between a mercenary and an Italian ruler in which the condottieri only answered to his employer; under this contract, the mercenary could attack and plunder the enemy's lands at will.

3. *Condotta in aspetto* was a contract used in

time of peace that awarded a retainer to the condottieri in return for their loyalty to the employer.

These contracts identified the mercenaries' responsibilities based on the state of war or peace and paid them accordingly. Contracts also contained archaic, non-compete clauses that prevented mercenaries from going to war against their employers for a given period of time following a contract's expiration.[6]

The privatization of warfare continued during Europe's colonization of the Americas and even expanded to the high seas. European powers such as England, France, and Spain issued letters of marque to the captains of privately-owned and operated vessels, authorizing them to attack and plunder enemy ships and colonies for profit.[7] These armed vessels, known as privateers, served as a quick and inexpensive means of expanding and projecting naval power. Countries paid these mercenaries of the high seas by allowing them to keep part or all of the vessels and cargo they captured or plundered. Like their land-based counterparts, privateers proved difficult to control. Inspired by plunder, many privateers went beyond their charge by attacking and plundering neutral or even friendly vessels. In fact, many infamous pirates, including captains Henry Morgan and William Kidd, began their careers in piracy legitimately as privateers.[8]

Governments were not the only entities to benefit from privatized warfare during the colonial era. As the European powers waged war for control of the New World, merchants and traders became increasingly vulnerable to attack. To help secure their assets during this period of state-sponsored piracy and raids, trade organizations such as the Dutch and British East India companies employed thousands of private security and military personnel to secure, and in some instances recapture, their interests around the world. Between 1715 and 1719, the Dutch East India Company employed 20,000 local and 5,000 European mercenaries in India alone, as it recaptured its interests in Calcutta.[9] The employment of private military and security personnel by colonial trading companies marked the first widespread use of these soldiers for hire outside of government control.

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The employment of private armed forces continued well into the nineteenth century. Private, non-state-affiliated armed forces played elemental roles in several conflicts, including the Cisplatine War, the Greek Revolution, and the Crimean War.[10] In the latter half of the nineteenth century, nation-states began to evolve into their modern form and increasingly monopolized security as a function of the state. An increasing number of states, including the U.S., Britain, and France, passed legislation banning their citizens from participating in the conflicts of other nations.[11] As a result, the employment of privatized warfare largely went dormant for more than 100 years, as nation-states organized and employed standing armies to meet security objectives.

Post-Cold War Resurrection of Privatized Warfare

The privatization of international security and warfare was resurrected in the 1990s, largely due to both the collapse of the Soviet Union and worldwide globalization. During the Cold War, the U.S. and Soviet Union each had armies numbering in the millions. These superpowers used their military might to support proxy states around the globe. The superpowers provided their proxies with financial and military aid, to include military advisors, training, and

equipment, to help maintain stability within these third-world countries. After the fall of the Berlin Wall and collapse of the Soviet Union in 1989, the U.S. and former Soviet Union cut military spending and significantly downsized their forces.[12] The superpowers' withdrawal of support to their respective proxy countries quickly resulted in a power vacuum throughout much of the third world. These once-protected, political regimes found themselves ill prepared to face emerging internal and external threats to their political power and natural resources in an increasingly turbulent and violent global environment.

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In the 1990s, modern private military and security companies (PMSCs) emerged to meet the demands of an ever-growing international market and fill the vacuum created by the superpowers' withdrawal. Due to rampant instability and armed conflict. Africa quickly emerged as the proving ground for these companies. Two companies, South Africa-based Executive Outcomes (EO) and Britain-based Sandline International, quickly emerged as the industry's frontrunners. In 1993, Angola hired EO to recapture oil facilities from rebel forces in Soyo. Later, EO provided training to Angola's military forces, helping put an end to the nation's bloody civil war.[13] Both EO and Sandline were involved in defeating the Revolutionary United Front in Sierra Leone. The United Nations (UN) later began contracting Sandline International and other companies to provide personnel security and military training in countries throughout Africa. Even the World Wildlife Fund hired private security companies to protect endangered species in the Democratic Republic of the Congo.[14] In total, these companies participated in an estimated 65 African conflicts from 1990 to 1998.[15]

The expansion of privatized security and warfare during the 1990s was not confined to Africa. Intergovernmental organizations (IGOs), non-governmental organizations (NGOs), national governments, and corporations around the globe began contracting private military and security services to conduct peacekeeping, end conflicts, and protect financial assets. United States-based companies DynCorp and Military Professional Resources, Inc. (MPRI) provided military and security services throughout the Balkans and South America in support of U.S. regional objectives. In addition to its contracts in Africa, Sandline International helped end civil war in Papa New Guinea. By the end of the decade, the private military and security industry had more than doubled to an estimated $100 billion annually.[16]

Executive Outcomes in Angola

Executive Outcomes was the first major military company to emerge after the Cold War. The brainchild of Eeben Barlow, EO revolutionized the concept of privatized warfare, elevating the mercenary trade into an elaborate and sophisticated corporatized profession of arms, which exploited Africa's volatile political and security environments during the early 1990s to achieve substantial profits. As the industry's frontrunner, EO served as the blueprint on which numerous other PMSCs were modeled.[17]

Eeben Barlow joined the South African Defense Forces (SADF) as a young man in 1972. Barlow climbed steadily through the ranks fighting in South Africa's bush wars before being selected to serve as the second in command of South Africa's infamous special forces unit, 32 Battalion. South Africa hired the majority of 32 Battalion's personnel as mercenaries before officially incorporating the unit into the

SADF. The unit had a unique mix of personnel, consisting primarily of black enlisted soldiers and noncommissioned officers (NCOs) from Angola and white officers from South Africa, the United Kingdom (UK), Rhodesia, Portugal, and the U.S. Specializing in counterinsurgency warfare, 32 Battalion consistently achieved the SADF's highest kill ratios and under Barlow's leadership became one of the most famous and highly-decorated units in South African military history.[18]

As apartheid came to an end, so did Barlow's career in the SADF. The new government discharged thousands of soldiers as it drastically restructured the South African military. In need of employment, yet not wanting to abandon his profession as a soldier, Barlow had the innovative idea to apply his military knowledge and experience to the private sector. In 1989, Barlow secured an investment from Strategic Resources Corporation (SRC), a venture capital and holding company, and EO was born.

Barlow had no difficulty filling EO's ranks. In 1993, because of negotiations between the white Nationalist Party and Nelson Mandela's black African National Congress (ANC), the SADF deactivated over 60,000 soldiers and underwent a drastic restructuring.[19] Barlow quickly surrounded himself with former members of the SADF's most elite units, including 32 Battalion, 1 Reconnaissance Commando, and 44 Parachute Brigade. To entice disciplined professionals, EO offered salaries commensurate to what elite military professionals deserved. Compensation ranged from $2,000 to $13,000 per month based on experience and expertise, with the average enlisted soldier earning $3,500 a month. These salaries were five to ten times higher than the dismal salaries offered by the SADF and other standing African militaries. In addition, EO offered its personnel generous life insurance benefits and full medical coverage, which helped recruit responsible family men in addition to adventurers and thrill seekers.[20]

The company's first contracts were relatively tame. Barlow used his connections in the South African military to help win a contract to organize and train special forces units for the newly-revamped South African military. Diamond-mining giant De Beers also awarded EO a contract to investigate thefts and provide security at its mines in South Africa. From these early contracts, EO grew to eventually offer five essential military and security-based services:

1. Strategic and tactical advice.
2. Advice and assistance in the selection and acquisition of weapons.
3. Military training for land, sea, and air warfare.
4. Peacekeeping services and pacification of hostile populations.
5. Paramilitary services to include basic and advanced security operations.

The company marketed these services as means of protecting lives and assets and bringing stability to volatile and lawless regions of the world. Although many of the services were military in nature, the term "mercenary" never entered EO's vernacular. Instead, Barlow described the company as a counterintelligence consulting firm.[21]

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In 1993, EO secured its first lucrative international contract after the government of Angola hired the company to retake a strategic oil refinery held by National Union for the Total Independence of Angola (UNITA) rebels in Soyo, Angola. A quickly-assembled, 28-man commando element,[22] equipped with state of the

art weapons and equipment infiltrated UNITA territory, engaged the rebels in a fierce yet well-contained firefight, and retook the refinery completely intact.[23] The Angolan president was extremely impressed and subsequently offered the company a one-year renewable contract for the sum of $40 million to support the Angolan government in its fight against the UNITA rebels.[24]

With speed and efficiency on par with the world's most elite special operations forces, EO committed a force of 500 military advisors to Angola.[25] These advisors served in various capacities, such as supervising security of military and industrial installations and protecting them from enemy attack and conducting unilateral commando raids and intelligence operations deep within rebel-controlled territory. The majority of EO's advisors partnered with Angola's 16th Brigade. The advisors guided the brigade through an extensive combat training program and inserted themselves at all levels of the unit's command to help stiffen the unit's resolve and guide operations from the top down. Beyond the training role, EO advisors actively participated in combat operations, accompanying the 16th Brigade into battle to find, fix, and finish UNITA rebel forces.[26]

Executive Outcome's involvement in Angola was widely viewed as a success.

To support its operations on the ground, EO maintained its own air component. Under its subsidiary, Ibis Air, EO acquired a wide range of aircraft. To provide logistical support, Ibis Air maintained a small fleet of fixed wing transports, including at least two Hawker Siddeley Andovers and two Boeing 727s. To support combat operations, EO employed Mi-24 Hind-D helicopter gunships, Mi-8 and Mi-17 transport helicopters, L-39 ground attack aircraft, and even MIG-23 jet fighters.[27] In addition to the psychological impact these aircraft had on the enemy, EO's private air force provided the company with a marked advantage over the rebels in both mobility and firepower.

After routing a large UNITA force on the outskirts of the Angolan capital in 1994, EO led the 16th Brigade on a series of highly-successful counteroffensives. The combined EO-Angolan operations drove the rebels out of major cities, captured the Cafunfo diamond mines, and reclaimed the Soyo oil fields. The UNITA rebels, unable to match EO's combat abilities, quickly sued for peace. Executive Outcomes proved so devastating to the UNITA rebels that during peace negotiations, the rebels demanded EO depart Angola as a fundamental condition of their surrender.[28]

Executive Outcome's involvement in Angola was widely viewed as a success. The company brought Angola's bloody civil war to an end, a task UN peacekeepers proved incapable of accomplishing. Furthermore, EO did so at a significantly lower cost than the UN peacekeeping mission, for which the international community was paying $1 million a day during the same period, with no results.[29] The successful execution of EO's Angola contract served as a proof of concept for Barlow's incorporated army. The effective, efficient, and overall professional way EO conducted operations made privatized warfare a legitimate security option for many countries.[30]

Private Military and Security Contracting Post-9/11

Although the 1990s saw the resurrection of privatized military and security services with companies like EO and Sandline International, the industry did not enter its golden era until after the terrorist attacks of September 11, 2001. The 9/11 terrorist attacks highlighted both the public and private sectors' vulnerability to international acts of terror and lawlessness. Governments

and private entities both sought ways to bolster security and protect assets at home and abroad. Where government military and police forces fell short, decisionmakers turned to the private sector to provide support. This sudden increase in demand led to the private military and security industry's unprecedented growth.

The Global War on Terrorism (GWOT), launched in response to the 9/11 terrorist attacks, served as a watershed for the privatization of security and warfare. In addition to existing overseas commitments, the wars in Afghanistan and Iraq severely stretched the U.S. military. When the Iraqi people failed to welcome U.S. forces as liberators following the 2003 invasion, sparking a long and bloody insurgency, the U.S. military quickly found itself under staffed. Then Secretary of Defense Donald Rumsfeld turned to PMSCs to fill the gap and provide services once reserved for traditional government soldiers. The U.S. government and its agencies issued contracts to these companies worth hundreds of millions of dollars to provide military and security services in the war zone.[31] Contractors secured Iraqi government and industrial infrastructure, trained Iraqi security forces, guarded U.S. compounds, escorted convoys, and served as bodyguards for high-ranking U.S. and Iraqi leaders. Over 20,000 private military and security contractors served alongside the U.S. military in Iraq, representing a force larger than any other allied country.[32]

Widespread employment of companies, such as Blackwater, Triple Canopy, Aegis, DynCorp, Erinys, Olive Group, and numerous others during the GWOT marked a definitive end to the states' monopoly on armed conflict. Private military and security contracting companies have become important international actors in the security sector. Today, these companies are providing their services in more than 110 countries around the world, and the demand continues to grow. It is not surprising to learn that the industry has enjoyed a yearly 7 percent increase in revenue over the last decade, with an estimated annual revenue reportedly nearing $200 billion.[33]

Corporate Armies: A Business Model for Armed Conflict

International demand has fueled the development of more than one hundred registered PMSCs.[34] These companies have succeeded in applying the corporate business model to privatized security and warfare. Some of these companies, such as MPRI, Armor Group, and Vinnell, are subsidiaries of larger corporations, while other companies remain independent firms.[35] Many boast board members who are powerful public figures, such as former U.S. Attorney General John Ashcroft and Texas billionaire Red McCombs, who both sit on ACADEMI's board of directors. Like other modern corporations, these companies maintain websites, publish brochures, and actively market their products and services to potential clients. By maintaining a professional corporate image, they are viewed largely as legitimate businesses providing a unique and viable service.

Private military and security contracting companies have become important international actors in the security sector.

These unique corporate bodies offer a wide range of services to their clients. Triple Canopy, a well-known U.S.-based PMSC, offers services in two categories: mission support and integrated security. Under mission support, Triple Canopy lists logistics and supply chain management; construction, operations, and maintenance; advisory and mentoring; contingency support; intelligence; information technology and communications; and information operations as available services. Under the integrated security category, Triple Canopy advertises installation

security, critical infrastructure protection, high-threat protection, tactical training, and technical security.[36] Most PMSCs of comparable size advertise similar services, the descriptions of which they intentionally leave vague and open-ended, as the services they render frequently go beyond their diplomatically-crafted descriptions. In fact, a growing number of these companies are conducting activities once reserved for frontline combat troops.[37]

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Many of today's "contract warriors" are trained and equipped to actively participate in offensive combat operations to accomplish their clients' objectives. The lucrative contracts awarded to these companies in conjunction with the relatively small size of their forces allow them to equip their personnel with the most advanced personal weapons and equipment available. In fact, contractors are frequently better equipped than their U.S. military counterparts. This is largely due to the strict government policies that govern U.S. Department of Defense (DoD) equipment acquisitions.[38] Since such bureaucratic red tape does not apply to the private sector, these companies can purchase the most innovative equipment as it becomes available. Many arsenals go well beyond small arms and personal equipment. ACADEMI, Triple Canopy, and Aegis, maintain fleets of armored vehicles, fixed and rotary-wing aircraft, fast attack maritime vessels, and even armed unmanned aerial vehicles.[39] Some companies even operate their own research and development facilities, producing highly-marketable, military-grade equipment for domestic and foreign military sales. Due to their vast arsenals, it has become increasingly difficult to distinguish PMSCs from first-rate special operations units by either their appearance or capabilities on the battlefield.[40]

Modus Operandi

The majority of PMSCs operate out of the U.S., UK, and South Africa, which happen to be their principal clients.[41] Many maintain offices near their respective national capitals, facilitating the solicitation of lucrative government contracts. These companies normally have a small full-time staff led by former military officers from elite organizations such as U.S. Army Special Forces (SF) and Navy Sea, Air, Land (SEALs); British Special Air Service; and South African Reconnaissance Commandos.[42] The full-time staff negotiate contracts and maintain a database of recruits.

Like any other business, these companies must compete for market share. When a government or private entity identifies the need for their services, it can either go directly to a sole PMSC or request bids from any number of companies. If the government requests bids from numerous companies, the staff must prepare a proposal and submit it to the potential client for evaluation, negotiation, and selection. After the client selects a proposal, the client and the selected company prepare a contract. These contracts are not unlike contracts for any other service; they provide a statement of work; define success and identify the company's performance requirements. The contract also outlines responsibilities of both parties, specifically regarding personnel, logistics, and operational expenses. Although the process can be tedious when working with a government agency such as the U.S. DoD, the payoff can be substantial, with countries granting contracts to PMSCs for as much as $831 million.[43]

To maintain a competitive edge, each PMSC maintains a long list of highly-trained and thoroughly-vetted applicants. During the GWOT, Blackwater reportedly maintained a database of

over 21,000 recruits, the majority of which were prior soldiers or police officers.[44] ACADEMI and Triple Canopy require their applicants to attend an assessment at their respective training compounds. During the assessment, they evaluate their applicants' physical fitness, marksmanship, tactical prowess, and any number of additional traits. When a company wins a contract, its staff reviews its pool of recruits to identify the best-qualified personnel based on its client's specific needs. If the contract is to provide maritime security operations, the company will likely turn to its ex-SEALs and other naval special warfare veterans. If the contract requires expertise in foreign internal defense or counterinsurgency, the company may turn to its former Green Berets, who possess regionally-specific, cultural expertise and language skills. Once the staff selects the appropriate personnel, it stages, equips, and deploys them to execute the contract. As can be expected from the private sector, these companies have streamlined this process for maximum speed and efficiency.[45]

The Benefits of Contract Warriors

The unique nature of PMSCs offers advantages over the employment of traditional military forces. First, they can help compensate for a lack of willing or qualified soldiers. This is especially the case in third-world countries where militaries traditionally lack adequate leadership, training, and resources.[46] They can provide sizeable, well-trained forces to meet client demands. If the mission demands a particular skill set, they can reference its database and form highly-qualified teams tailored specifically to meet unique mission requirements. Clients frequently contract these companies to do more than provide manpower for the battlefield. Often advisers and training teams are required to help develop the clients' own armed forces and to advise senior political and military leaders. In this capacity, these companies are both invaluable force multipliers and an economy of force.

The rapid pace at which PMSCs deploy personnel also provides a marked advantage over conventional military forces. Because they represent a private entity, the deployment of their forces is not bound by the same bureaucratic regulations as most government military forces. Whereas the deployment of government forces often requires significant political lead-time to meet legislative and judicial requirements, these companies can frequently have personnel on the ground within days of signing a contract,[47] which allows them to rapidly fill security gaps until conflicts can be peacefully resolved, host nation troops are ready to take over, or international peacekeeping forces are mobilized.[48] Many industry leaders claim their companies could have rapidly deployed to stem genocide in Rwanda, possibly saving tens of thousands of lives while the world waited for the UN to take action.[49]

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Another major benefit of utilizing these companies is the cost savings associated with contracting military and security personnel on an as-needed basis in lieu of maintaining a large standing force. Maintaining a standing military or security force is an extremely costly endeavor. Troops must continuously be paid, and their equipment maintained whether they are actively conducting operations or merely sitting in garrison. It is far less expensive to hire a PMSC temporarily when the need arises than to maintain a large standing military between conflicts.[50] This becomes more evident when considering the need for special skills or

capabilities that may be required. It is simply not cost effective to maintain a wide range of niche specialties in the event they may be needed during a future crisis when compared to the contract alternative. With PMSCs, clients can secure highly-talented and specialized personnel without the long-term economic cost associated with generating and maintaining those personnel themselves.[51]

The CBO found that…the employment of contractors led to substantial savings over time.

Using PMSCs to resolve conflicts can also save significant political capital. When a foreign government or corporation has an interest in a country, supporting the local government military or police forces may not always be an option. Organizations can hire these companies as a means of achieving their security objectives without running the risk of supporting oppressive third-world regimes that may have a history of human rights violations.[52] The decision to send these companies overseas, instead of government troops, as a tool of foreign policy is also less costly politically. Contractors working for these companies deploy by choice and for profit; the public does not view sending them into harm's way with the same aversion as the deployment of government troops to foreign lands.[53] Proprietary and contractual rights also afford a certain level of plausible deniability and commercial secrecy, helping politicians retain their political capital. Clients can shield the size, scope, and cost of their involvement from public scrutiny and, in some cases, even Congressional oversight.[54]

Comparing the Cost

During the GWOT, government watchdogs questioned the use of these companies in Iraq and Afghanistan, claiming their employment was fiscally irresponsible. In response to these allegations, in 2008, the U.S. Congressional Budget Office (CBO) launched an investigation that examined the government's use of PMSCs from 2003 to 2007. The CBO found that although the cost of hiring military contractors was slightly greater than deploying soldiers for the same tasks and periods of time, the employment of contractors led to substantial savings over time. These savings are primarily the result of reduced personnel costs when contracting these companies.[55]

At first glance, personnel costs for private military and security contractors appear significantly higher than personnel costs for soldiers. Contractors in Iraq and Afghanistan frequently earned between $500 and $1,200 per day depending on their qualifications and responsibilities. By comparison, the average U.S. soldier earned $140 to $190 per day.[56] Looking solely at these figures, soldiers appear far more cost effective than their civilian counterparts. However, according to the CBO study, there are several additional variables to take into consideration including additional benefits, training costs, and personnel strength requirements.

Although soldiers' daily earnings appear low, this fails to account for the full range of benefits soldiers and their families received at the government's expense including free healthcare and government-funded housing. Soldiers also receive educational benefits, including tuition assistance and the Post-9/11 GI Bill. Soldiers who extend their service commitments are often eligible for sizeable bonuses, sometimes more than $100,000. Soldiers transitioning out of the military may be entitled to disability compensation and, if they served at least 20 years, a government pension amounting to 50 percent or more of their salary paid to them for the rest of their lives. For soldiers killed in the line of duty, the government pays beneficiaries up to $500,000 in life insurance and death gratuities. When the monetary value of these

benefits is factored into the equation, the gap between salaries closes substantially.[57]

When comparing the personnel costs of contractors and U.S. soldiers, one must also consider costs associated with recruiting, training, and developing personnel. The government need not spend a dime to recruit contractors; PMSCs maintain databases full of qualified personnel and actively seek out government contracts. In addition, they hire personnel based on preexisting qualifications; thus, the government receives contractors with the specialized skills and expertise it desires without having to invest the time and capital to develop or maintain them. Soldiers, on the other hand, require a significant investment as the government must spend up to several years and hundreds of thousands of dollars training and developing its soldiers before they are truly proficient and experienced in their assigned occupational specialties.

A significant cost difference between soldiers and contractors also exists regarding personnel strength requirements. The U.S. military does not deploy soldiers to combat zones indefinitely. Instead, the military rotates personnel on a regular basis, giving them the ability to return to their home stations, spend time with family, decompress, attend professional military education, and train as a unit prior to deploying to combat again. At the height of the wars in Iraq and Afghanistan, the U.S. military aimed for a 1:1 ratio of a soldier's time spent at home station to time deployed. Eventually, as the military grew, this ratio climbed to 2:1, placing two soldiers at home for every one deployed.[58] Under these circumstances, PMSCs provide significant cost savings. While the military must pay to maintain all its active duty personnel whether they are deployed or not, these companies only bill the government for personnel actively engaged in fulfilling the contract. The most significant savings come when the fighting ends, at which point the government can allow the company's contract to expire. This eliminates the operating costs altogether, whereas the military must continue to budget for operating costs associated with active duty soldiers or go through a lengthy and expensive drawdown process.

When the CBO accounted for these factors, it found that the cost of these companies did not differ greatly from that of a comparable military unit performing a similar function. However, the CBO identified substantial cost savings following the conclusion of hostilities, at which point the government can allow its contracts with these companies to expire and government payments cease. This provides a significant advantage over traditional military forces, which the government must continue to fund regardless of their status.[59]

Some scholars have argued that PMSCs are simply modern incorporated bands of mercenaries.

The Dogs of War in the Fog of War: Issues with Privatized Warfare

The rapid expansion and ambiguous nature of the private military and security industry in conjunction with a series of high profile incidents involving its employees have raised several questions pertaining to the industry's legitimacy and lack of transparency.

First is the question of private military and security contractors' status on the battlefield. Some scholars have argued that PMSCs are simply modern incorporated bands of mercenaries. This is significant because the internationally recognized Law of Land Warfare does not classify mercenaries as lawful combatants, and thus they are not afforded the same rights and protections as traditional soldiers. As unlawful combatants, mercenaries

may be held criminally liable for their actions on the battlefield and, if captured, are not entitled to the same protections offered to prisoners of war.

The unique role these contractors fill on the battlefield arguably blurs the line between soldier and civilian...

The current standard for determining status is Additional Protocol I (Article 47) to the Geneva Conventions of 1949. Article 47 defines a mercenary as a person who meets the following criteria:

- Specially recruited locally or abroad to fight in an armed conflict.
- Takes direct part in hostilities.
- Takes part in hostilities for private gain and is promised by or on behalf of a Party to the conflict material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party.
- Neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict.
- Not a member of the armed forces of a Party to the conflict.
- Not sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

For an individual to be considered a mercenary, all the requirements must be true. For PMSCs and their employees, the point pertaining to motivation, is exceptionally difficult to prove. The motivation for many military and security contractors goes beyond financial gain. Many contractors claim their ideology, sense of patriotism, or longing for adventure as their primary motive for participating in armed conflicts. After examination of the criteria, many international experts, including the International Committee of the Red Cross, have found that labeling legally-registered PMSCs as mercenaries is unfounded.[60]

If PMSC employees are not mercenaries, what are they? The unique role these contractors fill on the battlefield arguably blurs the line between soldier and civilian, which poses an important legal conundrum as the rights and protections offered to soldiers and civilians vary widely. Soldiers, as legal combatants, retain rights not afforded to civilians. Soldiers have a right to participate in hostilities; civilians do not. Soldiers also have a right to intentionally target hostile combatants and are immune from prosecution for their role in hostilities. With these rights come responsibilities. Soldiers are obligated to act in accordance to the Law of Land Warfare. Soldiers are also required to identify themselves as combatants by bearing arms openly and wearing distinct uniforms that help identify them on the battlefield. Although PMSC employees frequently bear arms openly, they routinely dress in civilian attire, extending legal ambiguity to physical confusion on the battlefield. This could put innocent civilians at risk, as it becomes increasingly difficult to distinguish between hostile combatants, who represent legitimate targets, and civilians afforded protected status.[61]

Beyond the legal status, the rise of the private military and security industry has also raised questions as to the industry's validity and reliability in armed conflict. The hiring of private entities to conduct military and security operations disturbs some scholars. Their concern is over the legitimacy of clients actively employing these companies. Because there is currently no international governing body, a client's legitimacy remains subjective at best. Due to proprietary rights, the industry is seldom required to disclose the identity of

its clients.[62] Some argue that this apparent lack of transparency allows governments and corporations to hire these companies without the public's knowledge, thus allowing them to conduct activities that voters and shareholders may find unacceptable. Others argue that national powers could use these companies as surrogates to wage proxy wars.[63]

Like any other business, PMSCs are organized with the intent and purpose of making a profit. Those opposed to these companies argue that their dependence on conflict to make a profit represents a conflict of interest. These scholars question their effectiveness in armed conflict and suggest they may have ulterior motives when executing their contracts.[64] From a business perspective, quickly resolving a conflict may not be a PMSC's most profitable course of action and, theoretically, it could secretly prolong a conflict in order to extend its contract for greater profits. However, this is unlikely due to the large number of these companies currently in the market all competing for business. If a client is not satisfied with one company's performance, it can simply hire a different company.

Oversight and Accountability

Most disturbing is the apparent lack of legal clarity and oversight within the industry. Private military and security contracting companies have long operated in legal ambiguity. The nature of the international security industry results in companies frequently operating in locations where there is no effective rule of law. With international law being hazy at best, they frequently operate in legal gray areas with minimal oversight.[65] However, high profile incidents involving these companies in places such as Sierra Leone, Bosnia, and Iraq gained international media attention and placed pressure on lawmakers to act. Due to recent changes in the U.S. Code of Federal Regulations, American private military and security contractors are potentially subject to several sources of law and jurisdiction.[66]

First, the Military Extraterritorial Jurisdiction Act of 2000 (MEJA) placed U.S. civilian employees and contractors working in support of DoD missions under the jurisdiction of U.S. courts for felonies committed outside sovereign U.S. territory while accompanying U.S. military forces. The MEJA jurisdiction only applies to private military and security contractors working in support of DoD contracts. Contractors working for other federal departments or agencies, such as the Department of State (State), are not subject to MEJA jurisdiction.[67]

Private military and security contracting companies have long operated in legal ambiguity.

Second, in 2006, the U.S. Congress expanded the jurisdiction of the Uniform Code of Military Justice (UCMJ) to include "persons serving with or accompanying an armed force in the field."[68] Prior to this legislation, the UCMJ only applied to serving and retired members of the U.S. armed forces; it had no jurisdiction over ordinary DoD civilians or contractor personnel. Although the expansion of UCMJ to cover civilian employees and contractors has presented constitutional challenges regarding the standards of due process in military courts, it demonstrates the desire to hold DoD civilian employees and contractors accountable for their actions as representatives of the U.S. government.[69]

Finally, the Military Commissions Act of 2006 gives the U.S. government jurisdiction over war crimes committed by its citizens at home or abroad. The act states that the U.S. government will fine, imprison, or execute U.S. war criminals based on the severity of the crimes. Unlike MEJA and UCMJ, the Military Commissions Act of 2006 applies to all U.S. citizens and therefore has jurisdiction over American private military and security contractors, whether they

are executing a contract in support of a U.S. government agency, foreign government, or private entity.[70]

...if increased legal oversight and regulations make maintaining a profitable business untenable, a PMSC can simply relocate its headquarters to nation-states with more relaxed regulations.

Although these recent changes to federal law make it easier for the government to hold American military and security contractors accountable for their actions overseas, the companies for which the contractors work have developed a variety of tactics to sidestep legal and administrative actions that could impede profits. When these companies attract negative press or incur legal penalties that could affect profits, they have a variety of tools at their disposal to disappear, shed their negative image, and reemerge without penalty. Because they maintain very small full-time staffs, they can dissolve the entire company, relocate, and reopen under a new name relatively quickly and inexpensively. A company simply carries its database of recruits to its new headquarters and offers them contracts under the company's new name.[71] The staff of Blackwater employed this tactic, changing its name to Xe and later to ACADEMI, in response to negative attention following several highly-publicized incidents.

Another tactic these companies use to bypass public opinion and attempt to skirt regulations is to employ a shell corporation. A shell corporation serves as a vehicle for business transactions without having any significant assets or operations of its own. A PMSC can establish a shell company and compete for government contracts under the shell corporation's name. When the shell corporation wins a contract, it then subcontracts to the original company, which then executes the contract under the shell corporation's name. Like any other industry, each private military and security contract can have numerous layers of subsidiaries and subcontracts that make transparency and accountability exceedingly difficult.[72]

Finally, if increased legal oversight and regulations make maintaining a profitable business untenable, a PMSC can simply relocate its headquarters to nation-states with more relaxed regulations. An increasing number have already relocated their headquarters to offshore safe havens in Singapore, Hong Kong, and the Cayman Islands. In addition to a lack of regulations governing the private military and security industry, these locations also offer attractive financial privacy and tax benefits.[73] International regulations and enforcement are required to ensure these companies operate respectably no matter where their corporate headquarters is located.

Blackwater and the Nisour Square Massacre

In 2003, the Department of State contracted Blackwater to provide armed security services in Iraq. The $27. 7 million contract required Blackwater to provide personnel security for high-ranking State officials and host-nation diplomats, known as principals, as well as provide physical security for State compounds.[74] Mobile teams of Blackwater contractors routinely escorted State principals throughout the combat zone to attend meetings, check on projects, and coordinate activities with the host nation and other U.S. government agencies. Blackwater maintained a flawless record, supporting its clients on hundreds of missions without ever losing a principal. However, a 2007 incident in Baghdad, Iraq, involving Blackwater contractors, left dozens of Iraqis dead or wounded and gave the entire private military and security industry a black eye. This incident resulted in unprecedented legal action

against America's warzone contractors.

On September 16, 2007, a Blackwater element known as "Raven 23," consisting of four up-armored vehicles and 19 Blackwater contractors, was conducting a routine route reconnaissance in Baghdad, Iraq. When a car bomb exploded a few miles away in downtown Baghdad, the Blackwater team decided to establish a security perimeter at Nisour Square until it had better awareness of the situation. While stopped at Nisour Square, the element became involved in a small-arms engagement. The ensuing bloodshed left 14 Iraqis dead and another 18 wounded, including women and children. The combined U.S. -Iraqi investigation failed to corroborate the Blackwater contractors' claims that they had acted in self-defense. International pressure quickly built on the U.S. government to take legal action against the contractors.

After a series of legal debates pertaining to Stategranted immunity, legal jurisdiction, and administrative errors, four Blackwater contractors stood trial for the Nisour Square incident in a U.S. federal court in the summer of 2014. Federal prosecutors charged Nicholas Slatten, who allegedly initiated the entire incident, with first-degree murder. Paul Slough, Evan Liberty, and Dustin Heard faced charges for multiple counts of voluntary manslaughter and attempted manslaughter. In addition, all four contractors faced federal weapons charges for using military weapons while committing a felony, where a conviction carries a minimum sentence of 30 years in federal prison.[75]

During its opening argument, the prosecution argued that the Blackwater contractors fired without provocation and used excessive force. The prosecution claimed the contractors fired recklessly, noting that most of the victims were nowhere near the white Kia that the contractors claimed instigated the shootout. Prosecutors also noted that the shooting lasted nearly ten minutes and argued that the contractors should have broken contact and returned to base. The prosecutor's case rested on the concept of alternative liability; the prosecution did not need to prove which contractor fired the fatal shots. Instead, federal prosecutors only needed to prove the defendants opened fire to make their case.[76]

...four Blackwater contractors stood trial for the Nisour Square incident in a U.S. federal court...

To prove the defendants' involvement, the prosecution presented testimony from 71 witnesses, including two dozen Iraqis and nine members of Raven 23.[77] Multiple witnesses heard one or two initial shots, which prosecutors claimed Slatten fired with his SR-25 sniper rifle. Witnesses also testified to Slatten's deep-seated hatred of the Iraqi people and claimed Slatten bragged that he had "popped a guy's head like a grape. "[78] Iraqi witnesses easily identified Paul Slough as a shooter based on his crew position; Slough was the only gunner in a single-turret vehicle. Witnesses reported seeing Dustin Heard fire his M-240 machine gun. Investigators also recovered shell casings from Heard's M-4 rifle at the scene of the incident. Heard's Blackwater teammates also testified to Heard saying that he had "smoked" a man with his grenade launcher.[79] Members of Raven 23 also testified against Evan Liberty, claiming he was overly aggressive and mean spirited. Investigators also found an empty M-4 magazine at the scene marked "Liberty" on the bottom, evidence that he opened fire that fateful day.[80]

The defense argued the Blackwater contractors acted in self-defense, claiming the team believed that the white Kia they first engaged was a vehicle-borne improvised explosive device. The defense also claimed that insurgents, intermingled with the civilians, engaged Raven 23's vehicles with AK-47 fire. To prove this, the defense presented photos of

small arms damage to Raven 23's command and control vehicle. The defense also cited the prosecution's lack of ballistics evidence linking the killings to the Blackwater contractors. In addition, the defense brought into question the testimony of the Iraqi witnesses, emphasizing that the Iraqis could not positively identify the shooters.

After 28 days of deliberation, the jury returned its verdict. The jury found Nicholas Slatten guilty of first-degree murder. Paul Slough was found guilty of 13 counts of manslaughter and 17 counts of attempted manslaughter. The jury found Evan Liberty guilty of eight counts of manslaughter and 12 counts of attempted manslaughter. Dustin Heard was found guilty of six counts of manslaughter and 11 counts of attempted manslaughter. The jury also found the defendants guilty of federal weapons charges.[81] Six months later, in April 2015, Senior U.S. District Court Judge Royce Lamberth sentenced Slatten to life in prison. The judge sentenced Slough, Liberty, and Heard each to 30 years in prison, the minimum sentence based on their convictions.[82]

The Blackwater trial was a watershed case for the U.S. regulation of the private military and security industry.

The Blackwater trial was a watershed case for the U.S. regulation of the private military and security industry. Prior to the trial, these companies largely operated within a legal gray area and rarely faced legal action. The U.S. federal court's conviction and sentencing of the four Blackwater contractors involved in the Nisour Square incident set an important precedent. American military and security contractors and their companies have undoubtedly taken notice of the court's action. The Blackwater convictions will weigh heavily on other U.S. contractors as they consider the legal ramifications of their actions in lawless warzones overseas, possibly lending to them exercising greater restraint in the future.

Leashing the War Dogs: The Way Ahead for PMSC Utilization

Private military and security companies are neither the "whores of war" Machiavelli chastised, nor are they lawless bands of incorporated mercenaries.[83] Most are comprised of highly- trained and honorable ex-military and law enforcement professionals that follow a self-imposed code of conduct inherited from their time in service. The private military and security industry has become an increasingly competitive and politicized market, requiring them to execute their contracts in a professional and respectable manner. Despite these factors, the private military and security industry is still in need of regulation and oversight. Although several countries, including the U.S., the UK, and South Africa, have recently taken steps to regulate these companies and their contractors, several gaps remain due to the industry's complex international nature. To regulate the private military and security industry properly requires a comprehensive, three-pronged approach consisting of self-, national, and international regulation.

Self-Regulation

The private military and security industry should adopt a comprehensive regime of self-regulation. Self-regulation poses an attractive option because the industry can impose regulations on itself more quickly than can government legislation. By successfully applying policies and rules internally, the industry can potentially guide or even prevent new legislation that may negatively affect profits. Additionally, self-regulation helps legitimize the industry, thus increasing business prospects and potential profits.[84]

The industry took a huge step toward self-regulation in 2010, with the creation of the International Code of Conduct (ICoC) for Private Security Service Providers. The ICoC outlines the industry's obligations for ethical and legal behavior.[85] In 2013, the ICoC Association (ICoCA) was formed to "promote, govern, and oversee implementation of the ICoC and to promote the responsible provision of security services and respect for human rights and national and international law in accordance with the Code of Conduct."[86] The ICoCA has three primary functions:

- Certification of member companies assessing whether a company's systems and policies meet the requirements of the Code of Conduct.
- Monitoring of member companies' compliance with the Code of Conduct based on established human rights methodologies, including in the field.
- Handling complaints on alleged violations of the Code of Conduct, including allegations that the member companies' grievance mechanism is not accessible, fair, or not offering effective remedies.

To perform these functions, the ICoCA includes three types of stakeholders: states and IGOs, PMSCs, and civil society organizations or NGOs. These stakeholders are represented equally on ICoCA's board of directors, providing the organization with significant transparency.[87]

Although the creation of ICoCA is noteworthy, it faces challenges in its attempt to regulate the industry. First, ICoCA is largely dependent on PMSCs to openly and honestly share information. Due to proprietary rights and the secretive nature of privatized warfare, full disclosure is unlikely without incentives or the threat of penalties. Second, self-regulation requires universal acknowledgement and compliance from the industry and its clients. However, only six nations and just over a hundred PMSCs currently belong to ICoCA.[88] Finally, ICoCA lacks any serious means of enforcing its code of conduct. The most serious action ICoCA can take is to revoke membership. For ICoCA to prove effective at regulating the industry, national and international policies and legislation must provide a system capable of enforcing the industry's self-imposed standards.[89]

The industry took a huge step toward self-regulation in 2010, with the creation of the International Code of Conduct...

National Regulation

Although the private military and security industry has a professional association, self-regulation and unenforceable codes of conduct may be inadequate to properly regulate an industry that primarily deals in the use of force and armed conflict. National governments must act to ensure PMSCs based in their countries operate in a professional manner at home and overseas. There are several steps national governments can take to encourage ethical business practices, provide oversight, and increase accountability.

One method is for governments to become involved in ICoCA. Governmental membership in ICoCA provides a venue for governments to observe and influence these companies around the globe. Although open to all nations, only six countries are currently members of the ICoCA: Australia, Norway, Sweden, Switzerland, the UK, and the U.S.[90] Nations can further utilize the ICoCA as a regulatory mechanism by making government contracts contingent on company membership in the association. This measure would not only help legitimize ICoCA, but also provide an incentive for these companies to act in accordance with the ICoC, as failure to do

so could result in loss of membership, making companies ineligible for future government contracts.[91]

For countries that desire greater regulation than ICoCA provides, government licensing may be the best option. Many governments, including the U.S., require individual professionals to be licensed in their trade. Governments could apply this same concept to the private military and security industry. The licensing framework should start with a thorough vetting of individual contractors, to include criminal background checks and mental health screenings, like that of law enforcement. The licensing protocol should require training and qualification in weapons, first aid, and human rights. Training should also test applicants on the ICoC and legal issues, including repercussions and penalties for illegal activities. Governments could develop a privatized certification program at minimal cost. Governments would simply need to develop standards, certify training courses, and maintain a database of licensed contractors. If military or security contractors violate the ICoC, the government could revoke their licenses.

There are numerous gaps within the existing international legal framework pertaining to this industry.

To regulate these companies and their activities overseas, governments can require agencies, such as the State or DoD, to review and authorize contracts with foreign governments or private entities prior to execution. This allows the government to ensure these companies are not acting in ways that conflict with the country's foreign policy or regional strategy. While ideal for national governments, the review and authorization process would likely need to navigate several layers of government bureaucracy, thus eliminating one of main advantages of a PMSC, that of timely mobilization and deployment.

If governments make the licensing and authorization process too lengthy or tortuous, they run the risk of these companies relocating to other countries, where they will lose control and visibility over their activities. Although national governments cannot prevent companies relocating to other countries, they can influence their citizenry not to participate in unauthorized military and security activities by threatening to revoke citizenship. In the U.S., for example, personnel who join foreign militaries run the risk of losing their citizenship. To prevent losing control of these companies and American citizens becoming involved in overseas conflicts, as a last resort, the U.S. could revoke the citizenship of Americans who participate in unauthorized military and security conflicts overseas.

International Regulation

Due to the private military and security industry's complex, international nature, international regulations are required to regulate the industry successfully. There are numerous gaps within the existing international legal framework pertaining to this industry. Rather than ban the sale of these services, which would likely lead to resurgence in the employment of uncontrollable individual freelance mercenaries, the legal framework should be established to regulate the industry and hold the industry accountable for violations.

Due to confusion regarding to the legal status of these companies and their individual contractors under the Geneva Conventions, the international community should amend Article 47 to more precisely define mercenaries and clearly differentiate them from private military and security contractors. The amendment should define private military and security contractors as lawful combatants, affording them the same rights and protections as traditional soldiers. The amendment should also outline responsibilities

and requirements to comply with the Law of Land Warfare and International Humanitarian Law.

Finally, to provide oversight and enforce regulations, PMSCs could be subjected to the jurisdiction of an international court. The Hague's International Criminal Court and the UN's International Court of Justice are both capable of trying private military and security contractors for violations of international law and crimes against humanity. These courts may be the best choice settling international grievances between these companies and other parties.

Conclusion

Globalization, increased competition for resources, and the ever-present threat of international terrorism will keep military and security services in high demand well into the future. An ever-increasing demand for and dependence on PMSCs by global powers such as the U.S. and UN suggest that government entities no longer hold a monopoly on force. The ability to quickly assemble, equip, and mobilize highly trained and specialized teams to achieve sensitive military and security objectives around the world make these soldiers for hire the force of choice for a wide range of clients, including national governments, IGOs, NGOs, and international corporations. If these legitimate organizations continue relying on these companies, there is no foreseeable end to this lucrative and potentially lethal industry. With better regulation and increased transparency, these companies will prove to be an effective, efficient, and invaluable tool for enforcing order and stability in an otherwise chaotic and insecure world. ***IAJ***

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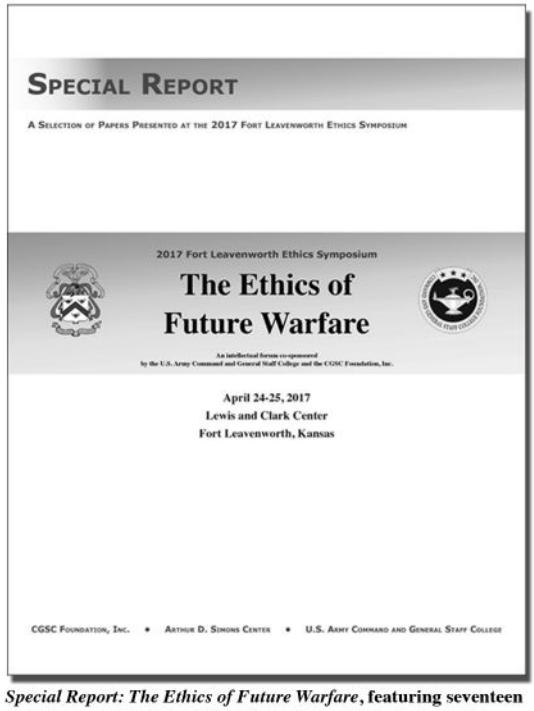
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Breaking News!

The Command and General Staff College Foundation has partnered with the U.S. Army Command and General Staff College since 2009 to host an annual ethics symposium at Fort Leavenworth.

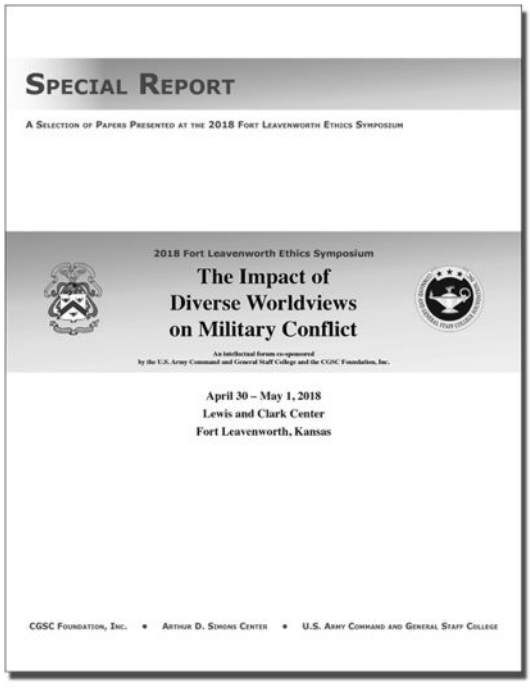
These annual symposia provide an opportunity for academics and practitioners to come together to discuss ethics as they relate to the profession of arms, the practice of state-controlled violence, and national security.

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"Sovereignty-in-Being":
A Dangerous New Model for Territorial Expansion in the 21st Century

by Russell Handy, Michael J. Forsyth and Joseph Kunkel

The basis by which nation-states "declare" sovereignty is being challenged in ways our current generation has not experienced. Non-state entities have historically ignored the concept of borders and move with near impunity in some cases, disrupting the stability of recognized states. We are accustomed to that. The evolving trend is of nation-states encroaching upon territories with a view toward establishing sovereignty by means of their mere presence: "sovereignty-in-being." This evolution is a dangerous and growing threat to stability, requiring serious thought and collaboration among like-minded leaders of free nations.

Historical Context: The Westphalian System, 1648 -1991

The international system framing national sovereignty has existed as we know it for over 350 years. The 1648 Treaty of Westphalia that ended the Thirty Years' War established the system and the concept of modern sovereignty – at least how we have come to define it in the "Western World." Prior to the agreement there was a distinct lack of respect for the rights of some states and powerful landowners, warlords, religious and political leaders ran roughshod over smaller states. Disputes erupted over religion, borders, trade, and who was allowed to establish laws within a given territory. The result was an ugly war that killed millions across northern Europe in the first half

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of the 17th century. The devastation of the land and loss of life finally exhausted the antagonists who met in a diplomatic congress to establish peace. The assembled ambassadors went beyond a simple peace treaty and completely revamped the concept of national sovereignty.[1]

...the tenet of Westphalian sovereignty has generally held over the past three centuries – until recently.

The Thirty Years' War began partially as a result of encroachment upon the rights of governance between neighbors. Although leaders of several political entities attempted to overrun their neighbors over genuine disagreements about internal policy, in many cases the invasions were simply land grabs to enlarge territorial possessions. The treaty established the conditions to make such behavior among political leaders anathema. Specifically, the terms recognized the right of sovereignty of each state over its land, people, and foreign policy on an equal basis. Further, the treaty "formalized" the instrument of war as a policy tool in the hands of internationally recognized sovereign political leaders and held those leaders responsible for unacceptable warlike acts. Thus, sovereignty gave exclusive dominion over territory and the people within designated borders to the recognized political leaders, free of interference by neighboring rulers. All recognized states, no matter their size, ethnicity, or creed, and their leaders were considered equally sovereign within the international community. Sovereignty – defined as dominion or rule over an area – became the central tenet of the treaty and this modern concept has endured to today.[2]

This is not to say all powers have respected the sovereignty of their neighbors. Napoleon and Hitler are illustrative examples of leaders who trampled over the Westphalian standard. Napoleon ignored sovereign borders in an attempt to expand the French Revolution across Europe, but was defeated when an alliance finally coalesced to turn him back. One might say Hitler used the sovereignty-in-being model expertly during the Sudeten Crisis with Czechoslovakia and subsequently had his usurpation underwritten by the western European Allies at the Munich Conference. Both of these leaders became pariahs in their time and the international community united to turn them back and return the world back to accepted norms.

Despite these few historical "bumps in the road," the tenet of Westphalian sovereignty has generally held over the past three centuries – until recently. Events over the past two decades involving both non-state and state actors have undermined the system and begun to make us question if we are "all in" with Westphalian principles.

Westphalian "Outliers"?

As implied earlier, although we in the western world respect and generally adhere to Westphalian principles and, quite frankly, assume all others *should* – we've witnessed conspicuous violations over the past 20 years. China offers an illustrative example of a nation adhering to an evolving interpretation of sovereignty, presenting a distinct challenge to the United States and her allies and partners in the region.[3] China ended a centuries-long decline in the early 20th century to emerge as a regional power in Asia, global economic powerhouse, and competitor for influence. Prior to 1945, China would likely contend they had suffered for several hundred years at the hands of colonizing nations in the West that encroached on her sovereignty. Since China emerged from its civil war in 1949, it has jealously guarded its territorial borders and prerogatives of internal domestic policy. As China's rise gained steam with the economic reforms of the early 80s, it began to experience

corresponding growing pains associated with her newfound strength. As the economy grew so did China's need for resources to fuel her expansion. Since much of its required natural resources exist in its "backyard," a competition has ensued in which China seeks to establish sovereignty over areas purported to have the desired resources, such as the isolated rocks of the Spratly Islands.[4]

The South and East China Sea are flashpoints of intense rivalry where China and several countries are vying for control of tiny islands and their surrounding areas where rich resources are thought to exist. Additionally, nationalist aspirations are driving China to make claims on disputed islands. They are aggressively pressing claims in these regions and have progressed from presence operations to full-fledged land reclamation efforts in order to establish permanent installations on these barren rocks and reefs. In all cases, establishing their claims pushes international norms to the side and redefines sovereignty according to their template. This has many stark implications that could result in ugly consequences around the globe such as the danger of miscalculation, inability to deter aggression, and a new rise of militarism.

Former U.S. Secretary of Defense Ashton Carter noted that "turning an underwater rock into an airfield simply does not afford the rights of sovereignty," or allow a country to push air or maritime borders outward. Carter's statement was a rebuke to Chinese assertions that a rock is an island that they can claim as sovereign territory.[5] Despite U.S. objections, China is continuing its buildup in the disputed territories and is pushing a message through international media justifying the effort as simply normal development activities on their sovereign territory.

Russia's actions demonstrate that it, like China, is capable of developing its own unique interpretation of sovereignty. Since the inception of the Russian nation, it has continuously sought and succeeded in expanding its territory to the east, west, north, and south. As Russia began to coalesce as a nation in the 15th century their leaders began to press south and east from Muscovy – an area surrounding modern Moscow – to extend political dominion and unite the various Rus tribes. This penchant to expand was passed on to the Romanov dynasty and the Tsars. One historian has noted that Russia expanded its territory about 55 square miles per day, which equates to 20,000 square miles per year, from 1500 to 1900. Among the reasons the Romanov kings pushed their territorial claims outward was a need to create external crises to keep the people unified, generate national pride, secure a stable tax base, and take control of natural resources. The borders of Russia expanded in all directions from the 17th century through the end of the Romanovs and Russian Empire in 1918. The Tsars pushed east to the Pacific, followed by eastern Europe in the 18th and early 19th century, and then finally, to the south into what is now the "stans" of central Asia. The competition with Britain for territory in Asia became so intense that historians have dubbed it the "Great Game." The political control the Romanovs achieved became a historical legacy later bequeathed to the Soviet Union and part of the Russian image of past greatness.[6]

Despite U.S. objections, China is continuing its buildup in the disputed territories...

The collapse of the Soviet Union in 1991 created a sudden burst of new countries and national aspirations among former Soviet republics and satellites. Many of these countries, such as Ukraine and Belarus, are part of Russia's near abroad,[7] which Russia considers its traditional sphere of influence. The newfound sovereignty of these and other countries surrounding Russia became a source

of irritation and embarrassment. Oligarchic leaders like Vladimir Putin have invariably awaited the opportunity to reverse this trend by re-exerting influence over what was deemed as Russia's rightful area of interest. Russia's annexation of Crimea and the on-going dispute with Ukraine are cases-in-point.[8] Russia arguably manufactured a crisis and intervened, claiming to "protect ethnic Russian populations" in the region. In the process, they established claims to the territory based on the demographic make-up of the area, all at the expense of the territorial integrity of their "adversary," Ukraine, and ultimately challenging the principles of sovereignty in place since the 17th century.

Sovereignty-in-Being

A case can be made that China and Russia are applying a deliberate and very similar *"possession is 9/10 of the law"*-style strategy in these very diverse parts of world we'll label sovereignty-in-being; defined as follows:[9]

> A nation that has physical control of a given territory first – even if it is claimed by another country in word – gains sovereignty by their mere presence at the expense of the other(s).

Nations continue to compete and the process by which they are doing so we have labeled as sovereignty-in-being.

In other words, presence (for some period of time, not formally established by any recognized international norm) equals ownership.

Here is how a nation implements a sovereignty-in-being stratagem. The desired region may contain an ethnically related population fueling nationalist ambitions and/or a significant amount of coveted natural resources. The area in question could reside within the borders of a sovereign nation or as part of the global commons. The interested nation then begins by conducting frequent presence operations in the area. Inevitably, diplomatic confrontations between the nation and regional competitors begin, leading to a rise in tension, but the tensions fall short of generating a military response. The aggressive nation then makes a unilateral announcement extending a land, air or maritime claim well beyond accepted international norms for their recognized territorial extent. The next phase involves establishing a permanent presence in the coveted area in an attempt to legitimize the claim, thus establishing sovereignty-in-being. Finally, the claimant challenges any competitor that seeks to prevent the nation from keeping its newly enlarged territory by asserting that any violation of the area is a violation of her national sovereignty. This sovereignty-in-being model completely undermines the Westphalian system and the recognition of national sovereignty by the international community.

The concept described above is not really new. Many nations of the past followed this pattern in attempts to expand from the time of Westphalia through the 20th century. It is nice to think that nations no longer seek to expand or aggressively compete with others in the 21st century, but it is naïve to think in this manner. Nations continue to compete and the process by which they are doing so we have labeled as sovereignty-in-being. In essence, what we see happening today is that some nations are using a new twist in reverting to the old paradigm of international competition for territory.

Enter the Arctic

Has sovereignty-in-being extended into the Arctic? This broad expanse, rich in natural resources that have been extremely difficult to access to date, is ripe for territorial dispute, given the trend of receding multi-year ice and the resultant increase in access and potential for human activity. A concrete example of our

sovereignty-in-being model in the Arctic recently occurred on Svalbard, an island archipelago over which Norway exercises sovereignty by a treaty agreement.[10] Russian Deputy Prime Minister Dmitry Rogozin, whose portfolio includes development in the Arctic, made a trip by air to the Svalbard without informing the Norwegian government. While there he reportedly "ridiculed Norwegian authorities" and stated that Russia would in time "make the Arctic our own." Before this journey Rogozin was on record as having said that "we [Russia] will lose the battle for resources, which means we'll lose in a big battle for the right to have sovereignty and independence" if Russia fails to assert its claims.[11] This is a clear illustration of the method by which the sovereignty-in-being model identified here is implemented and represents a warning signal to all observers that "the Kremlin believes that credible displays of power will settle conflicting territorial claims."[12] Russia clearly views the Arctic region as within its sphere due to its proximity. The presence of abundant natural resources provides further incentive to assert control.[13] Expansion of sovereignty claims by Russia in the Arctic is not only plausible, but a predictable continuance of a historical pattern exhibited over several centuries.

Implications

In the worldview of most United States citizens, the thought is that peace is the prevailing norm with limited periods of conflict eventually leading back to periods of peace. An alternative viewpoint is that conflict and competition are constants, interrupted by brief periods of peace. Nations that believe the latter are more inclined to employ sovereignty-in-being and gamble that, although their actions could lead to conflict, aggressive steps will force potential adversaries to stand down thus achieving their ends.[14] Therefore, to ensure continuation of the Westphalian system and that it remains the standard of the international community, United States' national strategy and policy must seek to deter potential adversaries while simultaneously reassuring partners of our commitment to peace and stability.

...there are several volatile areas of the world today with nations in those regions using sovereignty-in-being to expand.

As already noted, there are several volatile areas of the world today with nations in those regions using sovereignty-in-being to expand. Russia is pressing claims in its European near abroad as demonstrated by its systematic way of gaining control of swaths of land in its former satellites where significant pockets of Russian nationals live. They are also advancing claims in the Arctic where many experts believe there is a treasure trove of resources. There is a grave danger of miscalculation as a result of overly aggressive bilateral efforts to solidify claims since nations could misinterpret each other's actions. For example, a nation might establish so called redlines that constitute the point at which they will react to the actions of another country. If they then fail to act when that point is crossed it could embolden an aggressor to take even greater risks. Eventually, this could produce an unexpected counteraction when the honor and credibility of the aggrieved nation is questioned, resulting in conflict that could easily widen.

Way Ahead – Time for a New Westphalia?

The United States must assume a leading role in ensuring this concept of sovereignty-in-being is not legitimized by successful implementation over time by nations such as China and Russia. The U.S. and like-minded nations that adhere to the international norm of the Westphalian model of sovereignty should formally reaffirm their

support of the concept. This reaffirmation of sovereignty requires strong language and unity of the signatories in a formal agreement, a new Treaty of Westphalia, which then becomes foundational to any counter-claim when nations attempt to exercise sovereignty-in-being. The signatories to this agreement should then develop and implement a strategy that encourages all actors to conform to this newly stated international norm of sovereignty. The strategy would require that all nations, regardless of size or military strength, respect their neighbors equally. The U.S. and like-minded partners must press international bodies such as the United Nations to ratify such agreement(s) – and be prepared to enforce them – emphasizing the inviolability of recognized borders, and the requirement to maintain the global commons for the benefit of all nations. All of these things are critical to present a common front to those who would usurp Westphalian sovereignty.

No strategy is viable unless those implementing it are resolved to see it through. Too many times over the course of history a well-intentioned nation or coalition was unable to deter an aggressor bent on territorial expansion. Obvious examples are found in the run up to World War II as Germany outclassed the allies during the Anschluss in Austria, the Munich Conference, and the extension of the protectorate over the remainder of Czechoslovakia. Other examples abound in the Napoleonic wars. The pattern is clear. Policy without resolve emboldens an aggressor. Thus, to maintain international norms, the global community must reaffirm its commitment to the Westphalian standard and underwrite the precept of sovereignty from a position of strength and resolution.

Conclusion

The modern international system's bedrock concept revolves around respect for the sovereignty of recognized nations and the sanctity of the global commons. Nations like Russia and China are pushing the envelope by claiming ownership through mere presence, over time, in desired areas. They are taking great risks by pressing these illegitimate territorial claims. Through this methodical scheme we call sovereignty-in-being, possession is gained by establishing control of a region through a steady, deliberate process. In doing so, aggressors challenge close neighbors, daring them and the international community to reverse the situation. Unless the U.S. and like-minded allies and partners work together to formally condemn such actions, the entire international order is at risk and miscalculation could lead to violence that spills over, engulfing entire regions in destructive conflict. To avoid such a calamity the U.S. and partners who subscribe to the Westphalian concept of sovereignty must defend it using all tools of national power with unity and resolve. ***IAJ***

NOTES

1 Dr. David Hassan, "The Rise of the Territorial State and the Treaty of Westphalia," in Gay Morgan, ed., *Yearbook of New Zealand Jurisprudence*, (2006) v. 9, 66.

2 *Ibid*., 63-65 and 69-70. For additional reading on the Peace of Westphalia we recommend the following references: Derek Cruxton, "The Peace of Westphalia of 1648 and the Origins of Sovereignty," *International History Review* 21.3 (1999): 569-591; Derek Cruxton, *Westphalia: The Last Christian Peace*, Basingstoke, UK: Palgrave-MacMillan, 2013; Peter Wilson, *The Thirty Years War: Europe's Tragedy*, Cambridge: Harvard University Press, 2009; and Klaus Bussmann and Heinz Schilling, eds., *1648: War and Peace in Europe*, Vol. 3, Munster, Germany: Westfalishes Landesmuseum, 1998. This text is a compilation of articles.

3 The 2017 *National Security Strategy* states that China's "efforts to build and militarize outposts in the South China Sea endanger the free flow of trade, threaten the sovereignty of other nations, and undermine regional stability. China's effort to upset the recognized rules presents a challenge to the United States.

4 M. Taylor Fravel, "International Relations Theory and China's Rise: Assessing China's Potential for Territorial Expansion," *International Studies Review* (2010) v. 12, 505-507 and Chee Mun Chew, "China's Perspectives on the Major Island Disputes in the East and South China Seas: Implications for the Strategic Rebalance Toward Asia," (Unpublished Academic Research Paper: Air War College, Maxwell Air Force Base, 2013) 2.

5 Paul McLeary with Ariel Robinson, "He's Kind of a Big Deal" The Situation Report by *Foreign Policy* magazine, accessed on line 9 June 2015 at http://link.foreignpolicy.com/view/53252efef6e3a597521addf22p33f.1no5/44a33d80.

6 Peter Hopkirk, *The Great Game: The Struggle for Empire in Central Asia*, (Kodansha America: New York, 1990) xv and 5.

7 The term "near abroad" is one used by Russia and is defined as the fourteen recently independent republics on Russia's immediate border that emerged after the dissolution of the Soviet Union. *Encyclopedia of Russian History*, Encyclopedia.com, s.v. "near abroad," accessed 9 November 2017, http://www.encyclopedia.com/history/encyclopedias-almanacs-transcripts-and-maps/near-abroad.

8 William Milam, "The Shadow of Westphalia: Sovereignty and Suzerainty in Europe and Beyond," *The Friday Times* March 22, 2015 accessed online 2 October 2015 at http://www.thefridaytimes.com/tft/the-shadow-of-westphalia/.

9 The term sovereignty-in-being is derived from the British naval theorist Julian Corbett's idea of the fleet-in-being found in his book, *Some Principles of Maritime Strategy*. In Corbett's treatise he offers that the mere existence of a flotilla challenges command of the sea, thus it was not necessary to maintain a large "blue water" fleet to compete in the maritime arena of warfare. One only needed to challenge command and achieve local, temporary control of strategic bodies of water to make the conventional opponents challenges multiply. An example of the fleet-in-being concept in operation is the privateer fleet commissioned by the United States during the American Revolution. Though never able to challenge the British fleet on the open ocean – or even in littoral areas – the small flotilla harassed British shipping forcing the naval contingent to deal with them, drawing off critical resources needed elsewhere.

10 *Treaty Concerning the Archipelago of Spitsbergen, and Protocol*. Accessed online 11 October 2015, text found at http://www.austlii.edu.au/au/other/dfat/treaties/1925/10.html. The original signatories to this treaty in 1920were the United States, the United Kingdom, Denmark, France, Italy, Japan, Norway, Netherlands, and Sweden. It was done under the auspices of the League of Nations and additional signatories were added in subsequent years, one of which was the Soviet Union. The treaty agreement recognizes Norway's sovereignty of the archipelago, but it does provide rights to other signatories to conduct activities such as fishing and mining in coordination with Norway. The treaty remains in effect under the League's successor the United Nations and any successor nations, such as Russia, continue to enjoy rights bequeathed from the original signatory.

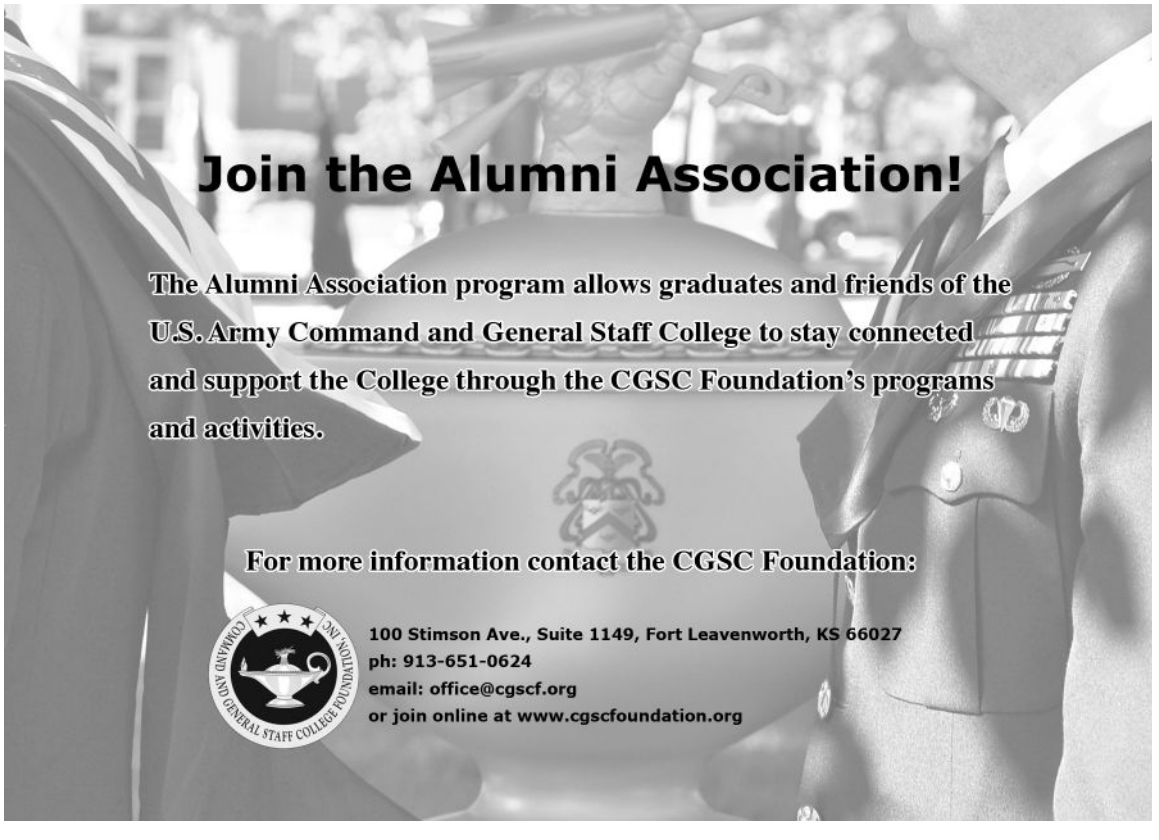
11 Nina Berglund, "Russia Defies Norway in Arctic," *News in English* (April 2015) accessed online 20 April 2015 at http://www.newsinenglish.no/2015/04/19/russia-defies-norway-in-arctic/ and Ishaan Thardoor, "The Arctic is Russia's Mecca, Says Top Moscow Official," in *Alaska Dispatch News* (21 April 2015), A-5.

12 Stephen Blank, "Russia in the Arctic," *Strategic Studies Institute* (July 2013) 22.

13 Volodymyr Valkov, "Expansionism: The Core of Russia's Foreign Policy," *New Eastern Europe* August 2014. Accessed online 21 March 2015 at www.neweasterneurope.eu/interviews/1292-

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14 Official website of the Russian Federation president, "Russia: 2014 Military Doctrine of the Russian Federation" published 26 December 2014 and obtained on open source at http://www.kremlin.ru. This document makes definitive statements in Section III that Russia is willing to take certain actions to deter adversaries through aggressive action to achieve its ends.



Digital Age Superiority …or the Digital Dark Age Collapse

by William B. Scott

> ***Cyber may be one of the most consequential national security challenges in a generation, and it will not grow easier with time. Our adversaries now believe that the reward for attacking the United States in cyberspace outweighs the risk.***
>
> ***— Senator John McCain[1]***

The Digital Age, whether you like it or not, is not upon us—it is now. The industrial age began over 200 years ago, and the large-scale factories of old, focused on mass-production of replaceable parts, have given way to decentralized, customizable, online orders. As government officials, policymakers, analysts, and computer programmers attempt to address deterrence, guard against possible incursions from adversarial belligerents, and compile doomsday scenarios for national leaders, they often overlook the inherent flaw in mastering the current digital architecture: It is not run by any government. Multinational corporations hold the keys to the digital kingdom and may lead the global community to a digital age collapse.

Adopting New Technologies

Imagine life 3,000 years ago: an industrious civilization just began smelting iron providing a great technological advantage over the other nations using bronze. Wrought iron, although not stronger than bronze, bends and chips under stress rather than shattering.[2] Naturally it would get incorporated in armor and weaponry which gives the military an advantage. It can also be sharpened after combat rather than melted and remolded. The metal's ready abundance gives an economic advantage over the relatively rare tin necessary in the production of bronze. In this situation, iron would become the hallmark of the civilization. It would be unthinkable to allow such an impressive technological advancement to be managed by an iron guild that did not play nicely with the blacksmiths, weapon smiths, and armorers of bronze that could fully utilize the advantage of iron.[3] Since the Hittites were

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the first to smelt iron ore, it would be marked as the most significant factor to the expansion of the empire…except it is not! Although the Hittites were the first to smelt iron, it was not integrated into the military that expanded the kingdom with bronze weaponry. When iron was finally incorporated fully in combat, it was used by various factions, causing the Late Bronze Age Collapse. It was the most violent, sudden, and culturally-disruptive disaster in ancient history when many cities were fully destroyed, and regional empires were devastated into villages and tiny city-states.

Despite the fact that over half the world uses the internet, very few outside of the information-technology community actually understand the general architecture, which is dangerous…

Historically, there is always a hesitance for established powers to incorporate new technology. The Hittites at the time had the strongest military in the region—why fix it? Although in hindsight, it is incredibly obvious for an empire to convert to iron, contemporary experts would argue against converting to iron because bronze is less brittle, has a lower casting temperature, resists corrosion and rust, and is stronger. However, had the Hittites quickly capitalized on their ability to smelt iron, their advancements would have surpassed the Roman Empire. Failing to adapt to a different metal led to a Dark Age noted for the destruction of civilization in the region for the following 300 years.

Iron brought significant changes to daily life in the societies that mastered it, from assured victory in battles to larger crop yields in farm fields. Exploiting tougher soils allowed the Iron Age denizen to experiment with different crop varieties and techniques. Iron carts and horse bridles allowed transport of heavier objects and cargo, increasing distance over land trade routes.

Digital communication is having the same world-changing effect that smelting iron had 3,000 years ago. Words such as social media, cell phones, cyberspace, email, digital currency, and video teleconferencing were non-existent or relatively unheard 30 years ago. Furthermore, cyberwarfare, cybersurveillance, telecommunication, ecommerce, and identity theft have changed lives socio-economically and added complexity to ensuring security, accountability, and identification. The digital age has changed our lives, and it continues to shape our world in sometimes unforeseeable ways.

The United States initiated the Digital Age when the United States Department of Defense funded universities to develop a method of packet switching in the 1950s, establishing Advanced Research Projects Agency Network (ARPANET) in 1969, the forefather of the World Wide Web. Commercial Internet Service Providers (ISPs) emerged in the late 1980s, and by 1990 ARPANET was decommissioned. At that time, approximately 1 percent of technologically-stored information in the world was in a digital format. As online commercial industry prospered, more information became stored in an interconnected network known as the internet or cyberspace. By 2014, more than 99 percent of stored information resided in digital rather than analog format. As tablet computers and smartphones began exceeding personal computers for access to the internet, half of the world became connected to cyberspace by 2016.

Understanding the Internet

Despite the fact that over half the world uses the internet, very few outside of the information-technology community actually understand the general architecture, which is dangerous, as it has allowed the industry to grow without oversight to its effect on national security.

In fact, often nations are more concerned as to what information is openly accessible inside the internet versus the construction and architecture of cyberspace. To avoid a Digital Age Collapse, it becomes imperative for nations to secure digital interests akin to physical ones. A basic understanding of Internet Protocol (IP) fundamentals, however, is essential to understanding the limitations and improving the digital domain. An investigation into the relationship between different forms of software will help define how cyberspace is shaped in this current Digital Age.

First, what is exactly meant by bandwidth? Most people have a general idea that the more bandwidth one has, the faster one can download a webpage, so, often, bandwidth is used interchangeably with data speed; however, it is more than that. Bandwidth relates to the physical means to attain internet connectivity. In short, without bandwidth, there is no connectivity, hence, no cyberspace. Bandwidth can be increased easily one of two ways: increase the efficiency of the connection or add more connections between the receiver and transmitter. The simplest way to understand bandwidth is to think of it as a road network. The more roads in an area relative to the vehicles equates to less congestion. The better quality of the roads (i.e., dirt vs. paved multilane) means the faster the vehicle can travel. As of 2015, three countries maintained 50 percent of the bandwidth of the world,[4] which is important because it allows for multiple avenues that packets of information can travel from one terminal to another, but what exactly is a packet, and why does it matter?

The packet is the crux of packet-switching technology, which allows cyberspace to exist. A packet is a pre-established set of codes that contains control information that provides instructions for delivering data and the data itself. Although there are different possible versions of packet protocol, the majority of cyberspace uses version four of the Internet Protocol (IPv4)[5] developed back in 1981, which includes formatting, error detection codes, sequencing information, and network addresses. Packets may also contain sensitive raw data such as financial transactions and passwords. What it does not included is encryption, guarantee delivery, dynamic addressing to keep up with the growth of the Internet, and tracking of the actual packet. IPv6, the successor to IPv4, has addressed many of these issues, but due to the enormous established infrastructure of IPv4 routers and ISPs, IPv6 remains mostly unimplemented despite many planned initiatives to transition. Without mandated governmental change, the cyberspace infrastructure remains in IPv4, and packet design limitations and capabilities determine the basic limitations and capabilities of the interconnected network.

A basic understanding of Internet Protocol (IP) fundamentals... is essential to understanding the limitations and improving the digital domain.

Information Security

Computers, tablets, and mobile phones allow access to the enormous amount digital information on the internet. It is important to note that no two connections are the same: aside from the multitude of computers, tablets, and mobile phones one can use to access the internet, there are also peripheral devices such as printers, speakers, external keyboards, monitors, etc. Each is managed by its own firmware, permanent software in read-only memory (ROM). In addition to the firmware of peripherals, at any given moment there can be dozens of other software programs running on a device that access the internet, each with its own vulnerabilities and weaknesses. There are a surprising number of backdoors and flaws

developed in the industry, and no one is held liable for producing a substandard product, such as poorly-programmed software that compromises security of sensitive information. Instead. the industry is allowed to keep quiet, and the more responsible software companies occasionally push security updates over the internet, in some case mandating and forcing additional updates, which require the users to be connected online.

...although there is abundant means to generate and store data, paradoxically there is not a practical means to preserve the data forever.

In short, the industry is allowed to police itself, and industry's final objective is to earn money, rather than look out for the best interest of the nation. Very few governments actually manage the software to their own systems. This may be because cyberwarfare is in its infancy. To date, only one country has used cyberwarfare in full multi-spectrum combat,[6] but each day the pool of malicious attacks inside cyberspace continues to grow. Threats range from espionage to immediate damage or disruption to vital military and civil services such as electricity, finance, and communication. Often these threats come in form of viruses, worms, Trojans, spyware, and ransomware. Despite the growing complexity and focus on cyber defense placed on servers and workstations, governments and corporations continually find the backbone to their network system compromised. Policymakers often ask an analyst how one nation can acquire digital dominance in cyberspace. The statement is too vague because how does one judge digital dominance? An analyst may answer the question by indicating that it is the bandwidth growth and capacity, the amount and type of hardware existing on the network, and the quantity and expertise of the programmers residing in the country or focus on how the nation can effectively leverage a mixture of these elements to effectively target another digital infrastructure in cyberspace. It is, however, a trick question. Although nations have vested interests inside the internet and employ programmers to secure and support critical assets in cyberspace, the reality is the majority of control to keep networks secure is in the hands of multinational corporations, and with few exceptions, nations and criminal organizations have access to their products.

Data Degradation and Loss – A Digital Dark Age Collapse

Unfortunately, there is another sinister problem afoot. In 1997, Terry Kuny postulated during a conference at the International Federation of Library Associations and Institutions about a Dark Age of recorded history due to digital technology storing information. A Digital Dark Age, however, is more than just theory, it has already begun. Almost all information currently stored is in a digital format, and although there is abundant means to generate and store data, paradoxically there is not a practical means to preserve the data forever. The fact is that the means to read the digital information itself degrades, corrupts, and becomes obsolete over time. In the last few decades, digital data has changed considerably. The means to read data stored on older devices, such as punch cards, floppy disks, and zip drives, have all but vanished, much less the programs to run them. Corporations constantly "improving" technology sometimes result in file incompatibility, so proprietary programs become incompatible with earlier formats.

Although vital information can be backed up, there is no guarantee that future generations will be able to access important files such as scientific research, government documents, and contemporary recordings of historical events. As

documents transfer to digital formats, often the original copies are not preserved. It is not difficult to imagine a future where knowledge is lost due to natural disaster or worse, cyberwarfare combined with conventional combat. The knowledge that has been passed and grown from generation to generation will simply disappear. Our children, grandchildren, and great grandchildren will marvel at the achievements of their forefathers as they try to unravel the mysteries from the few isolated networks and individual computers. The greater part of the information in the World Wide Web will be gone; details of a century of unprecedented accomplishments will be lost; scientific knowledge will have to be rediscovered and technological advancements reinvented. – It will be a Digital Dark Age Collapse.

Life After the Digital Dark Age Collapse

Life after the Digital Dark Age Collapse will still be digital. Dependence on digital mediums will not cause devastation to civilizations; society will collapse because like the innovation to smelt iron, leaders failed to envision the importance of the new technology before it was too late. Our descendants will rebuild interconnected networks from the ground up. Governments will regulate how the connectivity is built and keep certain elements of the architecture a national secret. They will be smaller and more flexible, and the militaries and emergency forces will be able to commandeer bandwidth easily during a national emergency. The doctrine of the basic soldier will include hacking enemy networks; there will be specializations as the architecture of each enemy network will be significantly different from another. Friendly nations will still have access through identification tokens for the purpose of commerce and communication. Operating systems and processors will be regulated by a commission, ministry, or secretariat, and although the graphical user interface will seem identical inside a nation, the mechanics underneath will contrast greatly in capability between the official government operating system and what is available on the open market. Companies that do not follow the tightly controlled regulations will be fined, shut down, or the senior executives will face incarceration. Digital capability in cyberspace will become a munition, and to prevent the Digital Dark Age and a Dark Age Collapse, probably should be treated as such now.

Indulge me, in a silly scenario: You are the leader of the industrious civilization during the Bronze Age. Citizens of your empire have developed a technique to smelt iron, which would give your forces a military advantage over the enemy, a crop-yield advantage over neighbors, and an economic advantage over trade partners. If you destroy the iron-clad dominance of the guild, you can avert the Bronze Age Collapse and the Dark Age that followed by incorporating and regulating iron in every aspect of trade, agriculture, and the military. Smelting iron would quickly be adopted by other societies, but the quickest source of iron would be your nation's farm tools—tools made from lower grade steel than what had been developed for the military. Your empire would dramatically grow in strength to be the envy of history. Now, imagine that you are leader of an industrious civilization today at the cusp of Digital Dark Age, what do you do? ***IAJ***

NOTES

1 John McCain, "Cyber Strategy and Policy," hearing to receive testimony, Committee on Armed Services, United States Senate, March 2, 2017.

2 Steel is in fact stronger than bronze, which can be made by adding as little as 2 percent carbon to iron. There is much debate as to whether early wrought iron or crude steel changed the dynamics in the late Bronze Age, as the early crude furnace process allowed smoke (carbon) to enter iron. For the sake of this argument, I have assumed that early iron at the end of the Bronze Age had some carbon but not enough to refine it to steel as conventionally known.

3 This is admittedly speculation. It is currently unknown whether the Hittite civilization was organized under the guild system or not, but it is plausible.

4 The three countries are the United States, China, and Japan. Martin Hilbert, "The Bad News is that the Digital Access Divide Is Here to Stay: Domestically Installed Bandwidths Among 172 Countries for 1986–2014," *Telecommunications Policy*, Vol. 40, No. 6, June 1, 2016, <http://escholarship.org/uc/item/2jp4w5rq>, accessed on April 4, 2017.

5 IPv4 is in fact the first version of Internet Protocol, and IPv6 is the second version.

6 Russia and/or Russian supporters preformed a denial of service operation against many Georgia websites in South Ossetia weeks prior to actual ground movement during the Russo-Georgian War in 2008.

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Women
and
Leadership

by Kevin P. Shea

> ***The defense of our nation is a shared responsibility. Women have served in the defense of this land for years before our United States was born. They have contributed their talents, skills and courage to this endeavor for more than two centuries with an astounding record of achievement that stretches from Lexington and Concord to the Persian Gulf and beyond.***
>
> ***– General (U.S. Army, Ret.) Gordon R. Sullivan, Chief of Staff of the Army, 1991-1995***

> ***Although American women hold almost 52 percent of all professional-level jobs, they lag substantially behind men when it comes to their representation in leadership positions.***
>
> ***– Judith Warner***

During his tenure as Secretary of Defense, Ashton B. Carter lifted all gender-based restrictions on military service. This cleared the way for women to serve alongside men in combat arms units across the Services. When making this announcement Carter said, "The important factor in making my decision was to have access to every American who could add strength to the joint force."[1] Carter went on to say, "Fully integrating women into all military positions will make the U.S. armed forces better and stronger."[2]

This change on gender-based occupational specialty restrictions may also allow greater access to higher levels of leadership positions that were often filled with male officers who served in the combat arms. Women felt their ability to ascend to those positions of both higher leadership and increased responsibility was restricted by the ability to serve only in non-combat arms branches. The decision to lift the gender-based restrictions will open about 220,000 jobs in all, with most of them being in the ground combat arms of the Army and the Marines.[3]

Dr. Kevin P. Shea is a Professor Emeritus of Leadership and a former Team Leader at the U. S. Army Command and General Staff College. He graduated from Stonehill College, has a masters from Central Michigan University, and a doctorate in education from Kansas State University. Shea has twice been named an instructor of the year.

Some might argue that there are leadership positions within the other branches; yet, women do not make up the preponderance of senior officers. Service academies have been commissioning women since 1980; after 38 years why are women not ascending in greater numbers to higher levels of leadership in the military? This is not just a problem for the military; it happens throughout the American workplace

...after 38 years why are women not ascending in greater numbers to higher levels of leadership in the military?

Speaking in San Jose, CA, at the Worldwide Developers Conference before a select group of Apple employees and invited guests, former First Lady Michelle Obama said:

> The absence of girls and women in the so-called STEM [science, technology, engineering, mathematics] fields has a deleterious effect on the tech industry.... I'm very passionate about girls' education, and we still have a long way to go on equality and access.... We have to teach young girls they are smart and can compete.[4]

Smart women are competing throughout the American workplace; however, the playing field is not always level. It certainly is not level when it comes to compensation. How would you like to be as smart and capable as the person next to you but earn 20 percent less based on your gender? That is not fair in a country that promotes values that should allow everyone to be successful if they work hard. In the case of a woman, working hard and doing the same work gets her an 80 percent solution in terms of pay equity. One half of our work force does not earn equal compensation for equal work. Women in the U.S. are now over half of the educated work force and earn most of the advanced degrees but only earn 79 cents for every dollar their male counterpart earns in the same market place. Mary Briton speaking at the Harvard Summer School adds to this discussion by providing this perspective:

> There is not a problem with female achievement. Women have caught up with men in terms of education. In fact, in the United States and several other countries, women now actually surpass men in educational achievement. The problem arises when young adults try to balance work and family, and women end up carrying nearly all of the caregiving responsibilities.... It is unrealistic to expect gender equality if workplaces demand that women be available all the time.[5]

A study last year by the American Association of University Women found that one year after graduation, there was a significant difference in pay between a hypothetical man and woman who had graduated from the same university with the same academic major and chosen to work the same number of hours full time in the same occupation. At the end of the first year of employment this hypothetical woman would already earn 7 percent less than the man.[6]

Judith Warner serves as a Senior Fellow at the Center for American Progress, and in August of 2015 she said:

> Women have outnumbered men on college campuses since 1988, they have earned at least a third of law degrees since 1980, and since 2002 have earned more undergraduate business degrees than men. They have not, however, moved up to positions of leadership and power in America at anywhere near the rate that should have followed. It is now estimated that, at the current rate of change, it will take until 2085 for women to reach parity with men in leadership roles in our country.[7]

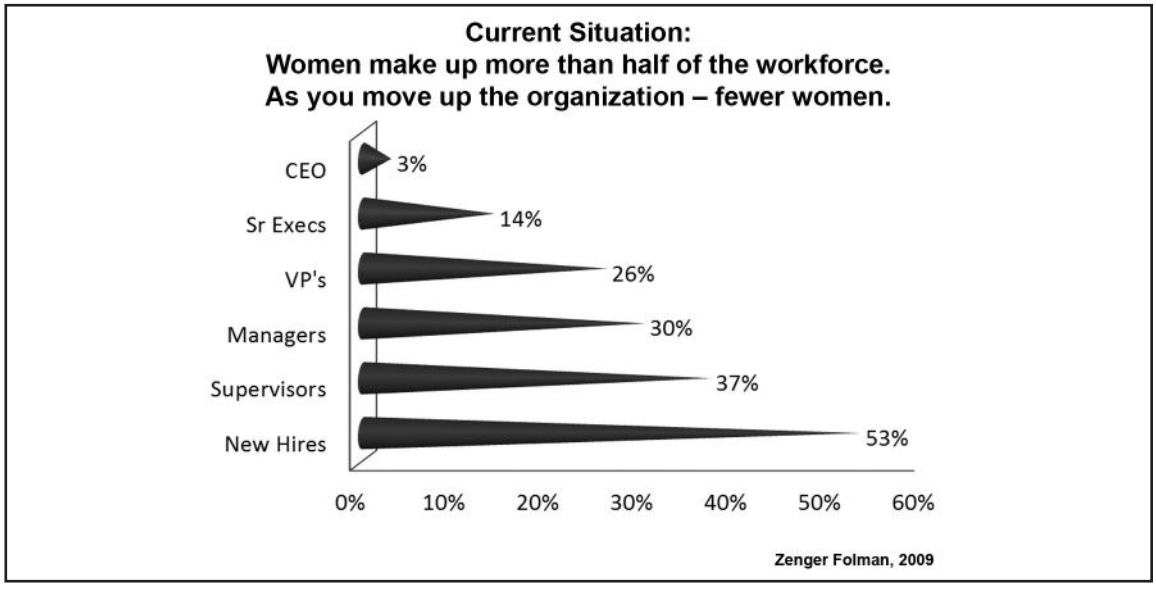


Figure 1. The "Current Situation" illustrates the statistics in greater fidelity.

In this country this gap originated as we began our movement away from an agrarian society. It started over a century ago with the Industrial Revolution and continues today with the lingering and deleterious effects of institutional and gender biases. Gender diversity may be a priority in many organizations, but the reality is that it is failing. We are not seeing more women as a greater percentage of senior leaders in all major organizations and institutions to include financial services, health care, technology, education, and the military. Even though these organizations are well intentioned, there are institutional and cultural barriers to individual and group success at the gender level. All organizations continue to have subtle gender biases that affect recruiting, retention, promotion, salary, job responsibility, and job equity. These biases are impacted by not only gender, but also by race, religion, ethnicity, sexual preference, and disabilities.

Given the recent advances of women, it is the gender disparity that is most disturbing. At the entry level women and men are equal, especially in initial job equity, but they begin to diverge shortly after that, as selections and promotions are made for leaders and managers. Women seem to vanish as the corporate ladder get higher, and worldwide they represent only 3 percent of Chief Executive Officers (CEOs).[8] The 3 percent figure represented at the corporate level seems to correspond to an equal percentage within the Department of Defense at the general officer or flag level positions from Brigadier General (0-7) through General (0-10). Of the 1500 largest companies in the U.S., only 67 have female CEOs. Put another way, only 2.2 percent of the major Fortune 1500 companies are led by people who make up 53 percent of the work force in these same companies.[9]

Women earn almost 60 percent of the undergraduate degrees and 60 percent of all master's degrees awarded in the U.S. They earn 47 percent of all law degrees and 48 percent of all medical degrees. Women earn more than 44 percent of master's degrees in business and management, including 37 percent of MBAs. They are 52 percent of the U.S. labor force and 59 percent of the college-educated, entry-level workforce.

In the financial services industry, they make up 54 percent of the labor force, but are only 12 percent of executive officers and 18 percent of board directors; only one is a CEO. On the

Why Are We Talking About This?
DoD Active Duty Officer Numbers

Grade	Total	Men	Women	% Women in the Active Duty Force
O-1	25,072	20,102	4,970	20%
O-4	46,541	39,534	7,007	15%
O-6	12,009	10,631	1,378	11%
O-7	429	394	35	8%
O-8	321	296	25	8%
O-9	155	144	11	7%
O-10	40	39	1	2%

"Defense Manpower Requirements Report" Fiscal Year 2014-August 2013

Figure 2. Why are we talking about this?

banking side of the financial industry, none of the publicly-traded major banks—Chase, Bank of America, State Street, or Citigroup—has ever been led by a female. Wall Street's reputation as a place where women struggle to succeed is well deserved, and if women work there as executives, the odds are that they will be underpaid in comparison to their male counterparts.[11]

Women are 35 percent of all physicians and account for 78 percent of the labor force in healthcare and social assistance, but only 14 percent are executive officers, 12 percent are directors, and none are CEOs; this, is in a field where females are a dominant majority.

For Fortune 500 companies, 14 percent of executive officers and 8 percent of top earners are women. Only 16 percent of Fortune 500 board seats are held by women, and only 4 percent of Fortune 500 CEOs are women. Although they hold almost 52 percent of all professional-level jobs, American women substantially lag behind men when it comes to their representation in leadership positions.[12]

You might think the military is exempt or in better shape because of pay equity. And while pay equity for military service members is controlled by grade with males and females receiving the same amount based on rank and time in service, the same cannot be said about promotions at the upper levels. Female officers in the military seem to do well up through the rank of Lieutenant Colonel or the pay grade of 0-5, which in the civilian world would make them a manager and probably just short of a Senior Manager or a Director level position. Women in the military seem to face the same ceiling as their civilian counterparts as this next Department of Defense (DoD) table indicates. Writing in the *Academy of Management Executive*, Ragins et al. concluded, "Whatever the reality, the

perception that there are limited opportunities for advancement is sufficient for turnover decisions and reduced career aspirations among talented females."[13]

And women in the U. S. military do lag behind. An on-going concern within the DoD about the lack of diversity among senior military leadership prompted a review of promotion data for officers in 2012. The RAND Corporation conducted that analysis using data from promotions in 2009. In fiscal year 2009, female officers made up 17.96 percent of junior officers in the grade of lieutenant through captain, but then only made up 12.72 percent of officers in the grade of major through colonel. Finally, female officers constituted just 5.6 percent of all general officers in the four services. A 1999 RAND study found that white female officers were less likely to achieve promotion to major, and that white and black male officers both had a higher selection rate to the rank of major.[14]

Admiral Mullen, the former Chairman of the Joint Chiefs of Staff, quoted in the National Security Strategy says, "Countries are more peaceful and prosperous when women are afforded full and equal rights and opportunity. When those rights and opportunities are denied, countries often lag behind."[15]

Having Women in the Room Matters

Women are underrepresented in boardrooms and in executive suites around the country, as well as within DoD. By not allowing women access to these senior levels of responsibility and leadership, the U.S. is missing an entirely different perspective, as well as an opportunity to make better decisions and provide strong, comprehensive leadership across the spectrum of human dynamics. Writing as a contributor to a compendium on women in the military, Admiral Mike Mullen says, "It is vital to have people and voices at the table who, collectively, offer broader perspectives than anyone could alone."[16]

What is the potential result of not allowing all women a seat at the table? In the civilian sector, it clearly means poorer corporate results from both a qualitative and quantitative perspective. When women are included in the corporate office, suites, and boardrooms the stock performance of those companies increases. From 2005 through 2011, Credit Suisse examined the records of just under 2,400 large-cap corporations and found that those with at least one woman on the board outperformed comparable companies with all male boards by 26 percent.[17] The income growth for these companies was higher also, using the same six-year period and the same companies; it was noted that the companies with women on the executive boards experienced a 40 percent income growth over those with all male boards.[18]

...corporations...with at least one woman on the board outperformed comparable companies with all male boards by 26 percent.

Fidelity Investments conducted a recent survey on Women and Money and found that women earned higher returns and saved more than men last year. Their investment gains topped their male counterparts by 0.4 percent based on an analysis of over eight million accounts at Fidelity Investments. A similar analysis found that women were better savers than males averaging over 9 percent of their paycheck while men routinely set aside 8.6 percent in retirement accounts. Although this data involves individual retirement accounts, it speaks to accountability and long-term risk management from a gender perspective and reinforces the records examined by Credit Suisse.[19]

Collective intelligence seems to improve in organizations when women are part of the group or in the room helping to make strategic or key decisions. Women demonstrate greater collective intelligence and work better collaboratively than

their male counterparts.[20]

Kim Campbell, the former Canadian Prime Minister, spoke about predominately male cultures and how they can foster fundamentalism that can be corrupt, intolerant, and antidemocratic

Multiple studies have shown that women are marginalized in meetings.

at the secular or state level. In the corporate world that macho culture makes MCI, Enron, Wells Fargo, and Uber scandals possible.[21] Jim Turley, the CEO of Ernst & Young tells a story about having women in the room, their ability to collaborate, their political patience. and his unconscious gender-bias in a board meeting:

> Three women on the board made individual comments that were similar in direction, which I didn't respond to. Not long after they spoke, a fourth person, who happened to be a man, made a comment in line with what the women had been saying, and I said, 'I think Jeff's got it right, not even aware of what I had just done. To their great credit, the women didn't embarrass me publicly. They pulled me to the side and played it back to me. It was a learning moment for me.[22]

According to Admiral William H. McRaven, the commander of U.S. Special Operations Command and the current Chancellor of the University of Texas System, "We will never fully understand the human domain when we have access to only half the people who live within it, which means that women are and will continue to be a critical means to this end.[23] As women move up in various setting and venues within the military and corporate environments they have yet to be fully appreciated for the unique leadership qualities and abilities they bring to the workplace.

What Can We Do?

We can allow women to finish their sentences. We can afford them the same respect afforded their male colleagues. When males repeatedly interrupt their female colleagues, it indicates a lack of respect for their knowledge, skill, talent, and expertise. Multiple studies have shown that women are marginalized in meetings. Researchers at both Princeton University and Brigham Young University found that women pointedly speak significantly less often than men in a variety of meeting formats to include legislative forums and committees, school board meetings, corporate settings, organizations and firms, and general informational meetings.[24]

A study at George Washington University indicates that during a three-minute-conversation, men will interrupt a women 2.1 times, and on average that is 33 percent more than when they speak with a fellow male.[25] Sociologists Candace West and Don Zimmerman recorded and analyzed conversations between men and women. There were 7 interruptions in the same-sex group, and 48 in the male-female groupings; 46 of the interruptions were a man interrupting the woman.[26]

This situation is repeated in a variety of male-female personal dynamic interactions in venues ranging from business to government. In fact, sociologists have now coined a name for it. It is called a "manterruption." And it happens even in the Supreme Court of the United States with remarkably similar statistics and regularity. Tonja Jacobi, a law professor at Northwestern University, analyzed transcripts from 2004 through 2015 for oral arguments at the U.S. Supreme Court. She found that female justices were interrupted 32 percent of the time, while their male counterparts were only interrupted 4 percent of the time. Female justices were three times more likely to be interrupted by male justices in the period from 2011 to 2015.[27] In 2015, over 65 percent of the interruptions

were directed against the three female jurists, while currently the most interrupted is Justice Sotomayor, the only woman of color on the bench.[28]

So, if it is not possible to stop these interruptions, what can a woman do when conversing in mixed-sex groupings? Women should learn to keep talking and not relinquish the speaker position nor acquiesce to a louder male. She should state that she is being interrupted by politely and firmly saying, "Bill, I'm not finished making my point. You can talk when I'm done," and continue on with her comments until she is finished.

What Does This Mean?

The current lack of gender diversity on corporate boards has highlighted the need to stop talking about gender diversity and actually do something about it. Stockholders are asking for accountability. Presently, there is one company that has reversed the trend. Travelzoo, an online travel service, has a board of directors that is 80 percent female. Ralph Bartel, the chairman, says, "I find it disconcerting that only five of the more than 4,000 U.S. companies have 60 percent or more female board members. Having different perspectives is very important."[29]

Zoe Saldana is a successful actress and movie producer. She has appeared in *Avatar*, *Guardians of the Galaxy*, and *Star Trek*—all blockbuster movies. In an interview for *Time* magazine, she indicated she was tired of being the lone female actress surrounded by many men:

> I feel lonely on set. And it's not just that you're the only woman in the cast. There are very few women in the crew. You hardly ever get to work with a female director. Some female producers try to blend in with their male colleagues and won't stand up to them. You're completely outnumbered. And you take a hit in your paycheck as a woman too. I'm so …tired of it.

Later in the same interview she added, "We keep our heads down because we're afraid of losing our jobs. But we can't just complain anymore. We have to band together with love and respect and do something about it."[30]

The current lack of gender diversity on corporate boards has highlighted the need to stop talking about gender diversity and actually do something about it.

How Can Women Help Themselves?

There are a variety of best practices or strategies that females may employ to work productively in their current environment and provide the momentum to break through the glass ceiling. When successfully employed, these strategies also have the added effect of reducing some of the cultural biases associated with increasing the levels of diversity at the upper levels of management and leadership in all career fields, to include the military. The following practices are not an all-inclusive list, they are meant to be used selectively based on the individual situation. However, when two or three of these are combined, research indicates that they have been central and crucial to the advancement of women executives. The list of the most effective strategies includes:

- Develop leadership outside the office.
- Network with influential colleagues.
- Seek difficult or high visibility assignments.
- Upgrade educational credentials.
- Consistently exceed performance expectations.

- Initiate discussion regarding career aspirations.
- Have an influential mentor.
- Gain international experience.
- Develop a style that men are comfortable with.
- Create professional relationships with males and leverage that rapport and respect.
- Demand to be treated as an equal but be prepared to work as an equal.

Within this list, four strategies stand out for advancing the careers of women executives: have influential mentors, exceed performance expectations, develop a style male colleagues are comfortable with, and seek out difficult or challenging assignments.[31]

Mentoring is a strategy that has the greatest opportunity for substantial payback...

Mentoring is a strategy that has the greatest opportunity for substantial payback and significant impact on one's career whether they are female or male. Within the U.S. Army, the name Fox Connor conjures up everything positive you can associate with the term mentorship. Major General Fox Connor's mentorship of Dwight Eisenhower, George Patton, and George C. Marshall in the 1930s had a tremendous impact on U.S. Army successes in WWII.

His Army Regulation 600-100 (Military Leadership) defines mentoring as the "voluntary developmental relationship that exists between a person of greater experience and a person of lesser experience that is characterized by mutual trust and respect."[32] The Army continues this mentorship discussion with guidance in their "Leadership" doctrine manual, Army Doctrine Reference Publication (ADRP) 6-22. In ADRP 6-22, the Army expands on mentoring and mentoring relationships by stating that mentorship is not always confined to a senior-subordinate relationship but can be found in peer to peer interactions also. This is an important distinction because it makes the point that mentoring is not always about senior-subordinate but about the experience you can gain from a referent leader to become more skilled and competent in your career field. This mutual collaboration and mentoring with a peer expands a person's professional knowledge and increases his or her skills to make them more valuable to the organization.[33]

Corporate Initiatives

The United Kingdom-based international consulting firm of Deloitte Touché Tohmatsu Limited employs approximately 245,000 people in 150 countries and territories, providing audit and assurance, tax, legal, risk and financial advisory, and consulting services and is heavily committed to diversity and the promotion of women. Acknowledging that males control the pipeline for promotion and leadership opportunities, Deloitte re-examined its diversity model. Like many other large organizations, Deloitte formed support or affinity groups in the 1970s for minority groups under its employment. Deloitte now recognizes the ineffectiveness of those groups. Those groups allowed Deloitte to say it was doing the right thing by providing a forum or platform for the diverse groups of race, gender, and other preferences within the company; however, mingling with each other does not help promote potential leaders, increase their visibility, nor improve organizational leadership.[34]

Currently, Deloitte is offering all its leaders, especially the white males who dominate its leadership positions the tools and skills to

become more inclusive and then holds them accountable for the personnel diversity within their respective divisions. For Deloitte, diversity is leadership in action and taking care of people, and it wants to educate and then hold its leaders accountable, because in the end it is the corporation's responsibility and in many ways its legacy.[35]

Deloitte is not the only company dealing with this gender disparity and inequality among its senior leadership. State Street Corporation, the 225-year-old, global, financial giant, is facing similar issues. Founded in the era of George Washington's presidency, this Boston company has been striving to bring more women into senior leadership positions. Among its initiatives are unconscious-bias training and numeric diversity objectives for managers. Its overall numbers seem to mimic many other industries and the military at senior levels. At State Street, 53 percent of the 17,000 associates are women, but only 27 percent of vice presidents and above are women. Consulting giant McKinsey validated these employment numbers, but added, "…only 40 percent of firms hold senior managers accountable to meeting diversity goals."[36]

Jay Hooley is the current CEO at State Street and is working hard to increase senior leadership participation among qualified women. He, too, has implemented policies to nurture an inclusive culture and has put the onus on managers to increase diversity. He has established numeric leadership targets for women. Hooley believes that "qualified women are invisible to men who could advance their careers."[37] Hooley reported that his top leaders, mostly white males, promoted leaders who were also mostly white males, with females making up about 10 percent of a recent promotion list. The list was then run through the company's standardized scoring process to get a better exemplification of potential female executives, where the females were all ranked in the top 33 percent. Hooley said, "It was a classic teaching moment about unconscious bias."[38]

Talent management and the promotion of talent is vital to the success of any organization. Many women leaders today who have earned that distinction and responsibility as leaders have been selected, groomed, and mentored by male leaders. Deepa Purushothaman, a director and principal for diversity at Deloitte said, "A lot of our leaders are still older white males, and they need to be part of the conversation and advocate for women. But they're not going to do that as much if they don't hear the stories and understand what that means."[39] Isaac Dixon, a vice president at Portland State University, has seen a shift away from support groups that were prevalent in the 1970s. His study indicates these groups fail because white male executives who make decisions are not directly involved in them. Dixon said, "The groups can actually insulate executive leadership from being involved. You have to get people with different backgrounds partnered up with more executive leadership."[40]

Many women leaders today who have earned that distinction and responsibility as leaders have been selected, groomed, and mentored by male leaders.

Conclusion

It is not just State Street and Deloitte, other companies, corporations, educational institutions, governmental agencies, and the military need to pay attention to this issue. The recent spate of daily stories demonstrates that many male leaders throughout the corporate world, the government, and the media have not practiced any sense of justice or integrity in protecting and promoting the other 51 percent of the population. Deloitte now recognizes that support groups have outlived their usefulness, if they ever were useful, to the affected parties. They are disbanding them and putting the onus

and responsibility for inclusiveness, diversity, and promotion where it belongs—on the shoulders of their white male leaders.

The clear reality is there is an injustice in both promotions and pay. It is about power. And there is a power imbalance in a system where women are not valued as much as men. Many leaders in the workplace have been abusing their power for quite some time now, and we are continuing to see this play out in the media. The movement against the current imbalance of power and increased promotions and protection for women in the workplace is overdue. We would all do well to embrace Deloitte's efforts and follow its lead, because as Admiral McRaven said earlier, "We will never fully understand the human domain when we have access to only half the people who live within it."[41] ***IAJ***

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USAID and USACE
Collaboration in the Pacific

by Patrick J. Wesner and Brett D. Fuller

> ***The United States must use its diplomatic, economic, and military tools simultaneously when assisting aspiring partners.***
>
> ***— National Security Strategy, December 2017[1]***

The recently released U.S. National Security Strategy (2017 NSS) highlights the importance of strengthening international partnerships and increasing synchronization between U.S. government agencies.[2] Foreign affairs agencies and other U.S. government entities with footprints overseas can support these strategic priorities by forging close interagency partnerships that allow for more effective and efficient programming. The U.S. Agency for International Development (USAID) and the U.S. Army Corps of Engineers (USACE) are two such agencies, which, especially when working together, have been important instruments of national security and foreign policy. Both agencies have diverse capabilities and their areas of expertise and responsibility sometimes overlap, presenting unique partnership opportunities.

In the past 15 years, coordination between USAID and USACE has increased significantly. The agencies "teamed in Iraq and Afghanistan to realize stability and reconstruction objectives,"[3] and, more recently, ramped up collaboration in other regions, such as the Pacific. Yet, while the agencies are working more closely together in some regions, the partnership could further evolve and deepen. Analysis of this unique relationship in the Pacific yields examples of successful collaboration and identifies challenges that might hinder more effective partnership.

Background

USAID is the U.S. government's lead agency for international development and disaster response. According to its recently updated mission statement, USAID supports U.S. foreign

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policy "through partnerships and investments that save lives, reduce poverty, strengthen democratic governance, and help people emerge from humanitarian crises and progress beyond assistance."[4] USAID promotes long-term development in relatively stable countries, provides humanitarian assistance in countries beset by natural or man-made disasters, and supports stabilization in conflict or post-conflict countries, amongst other responsibilities.

As a "strategic enabler," USACE provides a range of technical assistance for U.S. government partners...

The agency is headquartered in Washington, D.C., and operates in more than 100 countries with 87 country or regional offices, referred to as missions.[5] USAID missions are typically located at U.S. embassies and USAID staff are under chief of mission authority. USAID missions are composed of both Americans and foreign-service nationals. Of the approximately 10,000 USAID employees, over two-thirds are deployed overseas, of which 4,600 are foreign-service nationals.[6] These foreign-service nationals provide long-term institutional knowledge as well as cultural, linguistic, and technical expertise.

USACE is the nation's leading public engineering agency.[7] Its mission is to "deliver vital engineering solutions, in collaboration with our partners, to secure our Nation, energize our economy, and reduce risk from disaster."[8] The agency accomplishes this directive through approximately 37,000 employees, of which 97% are civilian, 8,000 are engineers and 800 are contracting officers.[9] USACE is a leader within the U.S. government for a wide range of engineering capabilities as well as construction management. Not only is it tasked with "building and maintaining America's infrastructure," but the agency also provides "engineering services to customers in more than 130 countries worldwide."[10]

As a "strategic enabler," USACE provides a range of technical assistance for U.S. government partners in hydropower, dam safety, emergency management, and environmental resource management, as well as other areas.[11] USACE also serves as a key resource when U.S. government agencies, such as the Department of State and USAID, endeavor to build the engineering capacity of partner nations. Additionally, the more than 40 USACE Centers of Expertise provide specialized capabilities in a variety of engineering fields.[12] These centers serve as critical reachback tools and enable USACE to project its expertise around the world through forward serving employees on temporary assignments. With its diverse toolset, USACE has a long history of supporting successful overseas construction projects such as hospitals, shelters, schools, and roads.

Due to the large-scale reconstruction activities required after the wars in Iraq and Afghanistan, USAID and USACE stepped up coordination in these countries. To facilitate this increasing partnership, the agencies signed a memorandum of General Agreement in May 2003 which provided "the framework for support and joint activities between USAID and USACE."[13] In 2006, USAID began sending development advisors to DoD's geographic combatant commands[14] and USACE began sending liaison officers to the USAID/Washington Office of Civil-Military Cooperation. USACE and USAID officials updated and signed another General Agreement in September 2017 outlining the overarching objectives of the partnership as well as relevant policies and legal considerations. This agreement also "allows missions to establish support agreements to utilize USACE services,"[15] which eases in-country collaboration. These support agreements typically come in the form of either a

Participating Agency Service Agreement (PASA) for technical assistance or a Participating Agency Program Agreement (PAPA) for projects.[16]

While many practitioners at both agencies see the value of strengthening the relationship, USAID and USACE collaboration is not always the most appropriate means to carry-out international infrastructure projects.[17] In more traditional development scenarios, for example, there are instances where private firms are cheaper or more experienced in particular regions or engineering fields than USACE. In such cases, partnering directly with USACE may not make programmatic or economic sense for USAID. However, recent collaboration in the Pacific has shown that in some circumstances, interagency partnership between the agencies can have a powerful effect by leveraging complementary resources and capabilities.

Overview of Foreign Assistance

Since the end of World War II, U.S. foreign assistance has funded reconstruction, stabilization, development, and disaster recovery programs in more than 100 developing countries. These efforts have spurred economic growth, supported democratic transitions, improved public health, helped stabilize or support war-torn countries, and mitigated the impact of natural disasters around the world. Postwar reconstruction efforts in Germany, Italy, Japan, and Korea are probably the best-known examples of the important role that U.S. foreign assistance has played to help America achieve its long-term foreign policy and security objectives, though there are more recent examples.

The U.S. government provides foreign assistance to "support global peace, security, and development efforts and provide humanitarian relief during times of crisis," and considers this assistance to be "vital to U.S. national security."[18] There are three general components of U.S. foreign assistance: development assistance (DA), humanitarian assistance (HA), and security assistance.[19] For this article, DA refers to longer-term development programs managed by USAID (and funded under several different accounts like Economic Support Fund and Global Health). HA generally refers to immediate assistance "designed to save lives, alleviate suffering, and reduce... the impact of disasters," and is led by USAID through its Office of U.S. Foreign Disaster Assistance (OFDA). [20] Security assistance refers to the provision of defense equipment, training, and other related services by DoD and DOS.

...in some circumstances, interagency partnership between the agencies can have a powerful effect by leveraging complementary resources and capabilities.

DoD also manages what it refers to as Foreign Humanitarian Assistance (FHA) programs, which focus on both immediate disaster response as well as longer-term activities.[21] The Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) Humanitarian Assistance Program is one such program. OHDACA funding is relatively modest but has become a growing asset to geographic combatant commanders who regularly use it to enhance regional security and strengthen alliances and partnerships.[22] USAID/USACE coordination relating to DA and OHDACA programs will be the focus of the remainder of this article.

Examples of USAID and USACE Partnership in the Pacific

The best way to appreciate the potential of the USAID-USACE partnership is to examine the recent collaboration between the agencies. In the Pacific region, specifically, the two agencies have successfully collaborated on projects where their authorities and capabilities align. Although

the budding USAID-USACE relationship in the Pacific is relatively unique, these examples may be insightful for USAID and USACE staff in other regions.

The USAID-USACE team in Bangladesh continues to focus on building the capacity of its host nation partners through various infrastructure projects.

Nepal

Since the devastating 2015 Nepal earthquake, USAID and USACE have collaborated to rebuild a new, earthquake-safe Primary Health Care Center (PHCC) in Bahrabise, Nepal. The $1.9 million health facility is funded by USAID through DA appropriations and implemented by USACE, "bringing together the Army Corps architectural and engineering know-how and USAID's public health expertise."[23] Plans for the center were unveiled on April 18, 2016, at a ceremony where the U.S. Ambassador to Nepal, Alaina B. Teplitz, said, "The U.S. government stood with Nepal in the immediate aftermath of the earthquake with humanitarian aid, and we continue to support ongoing recovery and reconstruction efforts. This new Bahrabise Primary Health Care Center shows the U.S. government's strong commitment to reconstruction and to ensure healthcare access to those affected by the disaster."

Currently, the USAID-USACE team has completed demolition of the existing buildings on site and is well underway with the construction of the PHCC.[24]

Bangladesh

Several years ago, USAID/Bangladesh had $40 million for the construction of 91 multipurpose cyclone shelters. USAID hired USACE to provide project management services during the construction of these buildings.[25] These buildings serve as schools or community centers where local community leaders can provide a number of public services and training, or carry out economic activities. More importantly, these buildings double as shelters for the local community during times of natural disaster in Bangladesh.[26] These facilities have improved everyday life in these areas and will save lives in times of disaster.

The multipurpose cyclone shelter program was such a success that USAID/Bangladesh decided to use USACE engineers again as technical advisors for agriculture infrastructure development supporting USAID's Feed the Future Program. The local government engineering department in Bangladesh has been "so impressed with learning from (USACE) that it wants to expand these concepts to other projects."[27] The USACE project manager in Bangladesh mentioned, "This is a very good model because it helps develop the capacity of the host nation to deliver for itself."[28] The USAID-USACE team in Bangladesh continues to focus on building the capacity of its host nation partners through various infrastructure projects.

Sri Lanka

In 2014, PACOM selected Sri Lanka for OHDACA funding to help thousands of locals gain access to clean water through a network of piping. The Chief of the USACE Asia Office at the time said, "This project is an excellent example of (PACOM's FHA) program and we are excited to be part of it. We were able to team with (USAID and others from the US Embassy) and local host nation partners to cost effectively provide drinking water to those in need."[29] An article about the project described the importance of USAID involvement in these DoD-funded projects and the "senior engineer and project management specialist for USAID, also visits the project sites frequently to assist the district with quality assurance. A local Sri Lankan

himself, he is instrumental in coordinating with the local government, water district, contractor and recipients of the water."[30] This example demonstrates the powerful multiplier effect that joint planning and implementation between the agencies can have.

Laos

Another FHA case study of note is the current USAID-USACE relationship in Laos. The U.S. has had a degraded presence in Laos since 1975.[31] Full diplomatic relations were restored in 1992, but this relationship has only recently started to expand since 2009 with the Lower Mekong River Initiative (LMI) discussed later in this article.[32] In early 2016, USACE and some of its staff of 130 archaeologists began supporting Defense POW/MIA Accounting Agency (DPAA) efforts to locate American personnel missing from the war in Indochina.[33] Also in 2016, USAID reopened its country office for the first time since 1975 to support new development and humanitarian activities.[34]

Over the last several years, USAID and USACE staff in Laos partnered to assess priority areas and develop proposals for OHDACA funds. The USAID Country Representative in Laos described the process of developing project proposals with USACE as "organic," starting from the bottom up. The USAID-USACE team, along with the Defense Attaché, discussed topics such as what to look for when considering project sites, how long projects might take, criteria for selecting programs, and how to prioritize activities. Moreover, the team members prioritized proposals that would enable the two agencies' resources to contribute to mutually agreed-upon objectives. The team has since collaborated on three types of OHDACA-funded construction projects in Laos over the past year and a half: health centers and clinics, water sanitation and hygiene stations, and secondary schools for girls.[35]

Regional Coordination

In recent years, USAID mission staff and USACE personnel operating in Asia have endeavored to move their partnership forward. The USAID Regional Development Mission for Asia (RDMA) recently held an infrastructure workshop at its training center in Bangkok in December 2017.[36] Given the growing partnership between USAID and USACE, RDMA invited several USACE staff from the Asia Office to attend the workshop and present along with their USAID colleagues on their projects in Nepal and Bangladesh. The USACE participants joined project management specialists, engineers, contracting officers, legal officers, agricultural advisors and environmental advisors from Washington, D.C., and 15 USAID missions in the region, as well as several representatives from private industry. The four-day workshop was a model for how U.S. government partners and private industry can share lessons learned from international construction projects.

Over the last several years, USAID and USACE staff in Laos partnered to assess priority areas and develop proposals...

Another example of USAID-USACE regional coordination as well as a highly successful whole-of-government approach to building partner capacity began in 2009 with the LMI.[37] The LMI is "a multi-national effort intended to build local capacity and encourage effective regional collaboration across borders in an effort to overcome regional challenges" between the countries of Burma, Cambodia, Laos, Thailand and Vietnam.[38] In 2011, Vietnam hosted a LMI disaster management workshop, which is now repeated annually and rotates between the five countries. In December 2017, the LMI Disaster Response Exercise and Exchange (LMI DREE) was again hosted by

Vietnam. "The humanitarian assistance/disaster relief exercise brings together more than 100 disaster management experts from a wide range of government and international organizations," to include experts from USAID and USACE.[39]

Despite these recent examples of growing collaboration between USAID and USACE in the Pacific, there is potential to more fully maximize this partnership.

Recommendations

Despite these recent examples of growing collaboration between USAID and USACE in the Pacific, there is potential to more fully maximize this partnership. The following recommendations respond to the challenges to collaboration articulated by USAID and USACE practitioners in the region. They also support recent remarks by USAID Administrator, Ambassador Mark Green, that, "we need new ideas and we need innovative thinking."[40] These recommendations are divided into three categories: USAID and USACE, USAID-Specific, and USACE-Specific. They are structured to address a full range of challenges and opportunities.

USAID and USACE

Champion the USAID-USACE Collaboration

USAID's position within the foreign policy and national security establishments has faced some uncertainty during the first year of the Trump Administration. Ambassador Green has acknowledged this uncertainty and has endeavored to reposition the agency in a manner that will enable it to successfully respond to administration priorities. As such, it is worthwhile for USAID to consider collaborating more closely with other interagency partners when it proves to be more effective and efficient. While partnering with USACE is not "necessarily a cure-all, (it) represents another tool for USAID to use in pursuit of better development outcomes."[41] Thus, USAID and USACE personnel should further examine, document and broadly communicate the merits of this partnership to policymakers and the American public as part of the whole-of-government approach to foreign policy.

Moreover, it is possible that majorities of the workforces of both organizations do not know much about the other. This challenge could be overcome if leaders in each agency championed the partnership and communicated the merits of collaboration on projects of mutual interest. One author who has written about USAID and USACE collaboration proposes a USAID/USACE working group to evaluate how the agencies "may be able to use one another's expertise,"[42] and how to expand the relationship. Such a working group could conduct a thorough capability gap analysis and identify best practices, opportunities to share technologies and enterprise software, obstructive policies and procedures, and disseminate its findings. Additionally, this group could create brief guidance documents outlining the authorities, capabilities, and partnership options for use by the staff at both agencies, and particularly within USAID regional and country offices.

Identify Opportunities to Bridge Organizational Cultural Differences

The cultures of civilian and military organizations can be vastly different. USAID's Civil-Military Operations Guide highlights the challenges of such coordination due to the dissimilar cultures. It mentions that USAID is more resource constrained, focused on sustained engagement, and has an in-country locus; while the military is less resource constrained, is mission oriented and has a Combatant Command locus.[43] Interviews for this article also revealed differences in decision making processes, levels of decision making authorities, and meeting structures, among others.[44] The key to

overcoming these cultural barriers is developing strong working relationships and focusing on the complementary tool sets of the agencies.

One idea for building stronger institutional connections would be to establish a crossover assignment process, similar to that between USAID and DOS. A USAID Contracting Officer suggested that the agencies could identify assignments that could support an initial pilot program. For example, USACE civilian engineers could be allowed to bid for USAID engineer positions that may otherwise go unfilled. This opportunity could also be made available to contracting officers, project managers, and others. Another possibility would be to create term-limited positions at USACE that USAID foreign-service officers could apply for, similar to USAID instructor positions at military institutions such as the National Defense University and the U.S. Army Command and General Staff College. Such cross-pollination between the two agencies "might go a long way in strengthening the bond."[45]

Develop Regional and Agency-Wide Funding Mechanisms for Country Missions to Utilize

USAID mission staff often have to grapple with competing priorities, substantial planning and reporting requirements, and generally large workloads. Full and open contract solicitations regularly have procurement timelines of 12-18 months, possibly longer for complex infrastructure projects. These factors can act as a deterrent for USAID staff when considering whether or not to pursue an infrastructure project.

In order to address this challenge, USAID and USACE should consider developing new PAPA and PASA agreements that would enable easier and quicker partnership, when appropriate. While USAID missions can also develop individual PAPA and PASA agreements with USACE, some missions lack in-country contracting officer support or are trying to address challenges that cross national borders. Creating regional agreements is more efficient and reduces the overall workload of individual mission staff over the long-run, and could empower these missions to pursue infrastructure projects that might otherwise prove too difficult or time-consuming. The process of developing these interagency agreements is just as important as the actual agreements because it provides an opportunity to build relationships between each agencies' contracting officers, legal offices, environmental officers, engineers, project managers, and administrators.

...cross-pollination between the two agencies "might go a long way in strengthening the bond."

The USAID RDMA office in Bangkok recently drafted a Disaster Risk Reduction and Infrastructure Support PAPA with the USACE Pacific Ocean Division. The PAPA aims to accelerate the impact of USAID development activities by leveraging the technical expertise and procurement capabilities of USACE's Pacific Ocean Division.[46] The proposed PAPA would enable USAID missions in the region to access disaster risk reduction and infrastructure planning expertise, engineering and technical support services, and architectural, engineering and construction services. If successful, the agreement could serve as a model for other regions.

Conduct Regular Interagency Training and Workshops

Both agencies regularly schedule and coordinate training events and engagements to foster professional development, build relationships, and disseminate best practices and innovations. USAID and USACE could enable cross-organizational learning by more regularly inviting participation from the other

agency. In addition to the workshop in Bangkok described above, USAID has also recently hosted regional week-long infrastructure-related workshops in Washington, D.C., and Pretoria at which USACE could have sent representatives to provide different interagency perspectives during workshop discussions. This type of training and development collaboration could be a regular practice at both agencies and in other regions.

...working with USACE, given it is another U.S. government entity, should be different for USAID than working with a private sector partner.

Another suggestion is for each of the two agencies to take advantage of the learning management systems of the other agency. Specific classes offered through the USAID University and the USACE Learning Center could be identified as mutually beneficial and interagency participation encouraged. For example, the USACE 'Environmental Considerations in Planning' course could populate in the menu of options for USAID engineers on their USAID University network.[47]

USAID Specific

Treat USACE as a Trusted U.S. Government Partner

Some in USAID reportedly view USACE solely as a private sector contractor, resulting in a relationship that falls short of collaborative interagency partnership.[48] One senior leader within USACE wrote, "USACE provides more than what an A-E firm would provide. For example, an A-E contractor will perform what is specified in the contract and has a profit motive. USACE provides the flexibility, independent advice and expertise of a federal partner without the profit motive. For example, USACE will make recommendations for alternative approaches that may save money for USAID. Further, writing and managing A-E contracts also requires technical knowledge and expertise and USACE provides this with its extensive experience and depth in managing such contracts."[49]

While the difference is perhaps subtle, working with USACE, given it is another U.S. government entity, should be different for USAID than working with a private sector partner. With USACE, every effort should be made to have a more collaborative relationship characterized by open communication, transparency, mutual responsibility, and shared risk. If the partnership is based on a strong foundation from the beginning, success and failure will be shared. Additionally, USACE partnership is different from the private sector in that USACE regularly supports in-country projects through its own DoD-funded FHA. Even though USAID often serves as the "donor" and "USACE as engineering implementers," both agencies are committed to the proper stewardship of taxpayer funds and supporting the national security and foreign policy interests of the United States.[50] These commonalities should be the basis of a strong and trusting partnership.

USACE Specific

Treat USAID as a Valued Customer

USACE leadership often stresses the importance of strong customer service. For example, LTG Todd Semonite, USACE Commanding General advocated before Congress that intergovernmental "agencies can turn to the Corps" to utilize USACE technical capabilities and effectively spend taxpayer dollars.[51] However, a few USAID employees interviewed for this article expressed concerns dealing with USACE in the past that centered on issues of communication, transparency, and project control. Another problem mentioned by a USAID foreign-service officer was the perception that USACE was not always properly

vetting technical staff sent to provide advice or support to embassy country teams. According to this employee, he had the impression that when high performing USACE employees were tied up with projects in their districts, USACE was forced to send less experienced employees which had a negative impact on the partnership.

The RDMA draft PAPA offers a solution to this by having a "pre-identified roster of qualified and deployable engineering and technical support staff, organized by technical discipline."[52] This would allow USAID to vet and approve USACE technical staff prior to assignment on infrastructure projects. It would also enable USACE to ensure that personnel on the roster are able to access training or other resources that better prepare them to work directly with USAID staff on international development projects.

Overcome the "Tyranny of Distance"

USACE is often plagued by the "tyranny of distance," as one senior executive described it, referring to the challenges of managing projects overseas from another country. This is especially true for the USACE Alaska District's Asia Office given the enormous size of the Pacific region. The Asia Office has developed business processes to overcome the challenges that should be institutionally shared and standardized where appropriate. However, USACE employees from the Asia Office typically only travel to countries in the region where they have active projects, which hinders building new partnerships. To mitigate this challenge, USACE should consider providing a modest amount of centralized funds[53] to district offices for regional travel. This funding would enable district staff to establish and maintain new in-country relationships with USAID, and other interagency and host government personnel. USACE should also consider placing liaison officers at large embassies that serve as regional hubs (Bangkok and Manila, for example). This would strengthen collaboration and planning at the regional level and allow greater real-time monitoring. The benefits accrued by ensuring deeper relationships through additional travel funds and fielding liaison officers would likely offset the added costs.

Conclusion

USAID-USACE collaboration, especially in the Pacific region, has improved over the last several years. Examples include the signing of the new General Agreement between the agencies, drafting of a regional agreement that (if executed) would ease the process of developing in-country partnerships, cooperation on several successful development projects in Asian countries, and more sharing of information as evidenced by joint project planning in several countries and the infrastructure workshop in Thailand that included USACE personnel.

These examples indicate that, in certain circumstances, combining the technical expertise and organizational capabilities of both agencies can contribute to American strategic objectives in developing nations. However, many of these efforts were only successful because of the dogged determination of individual practitioners from both agencies located in the field whom were committed to making the partnership work. If the partnership is to reach its full potential, more needs to be done at the corporate level to develop enabling policies and procedures, step up collaborative planning, and more regularly evaluate the results of joint activities. President John Kennedy once said, "Things don't happen, they are made to happen."[54] In this case, stronger and more impactful USAID-USACE collaboration will only likely result from a deliberate and considered approach. ***IAJ***

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For more information about the CGSC Foundation Staff Ride Program contact:

Joan Cabell, Director of Development

joan@cgscf.org or (913) 327-9848

Worth Noting

President Trump visits JIATF-South

On Thursday, April 19, President Donald J. Trump visited Joint Interagency Task Force-South (JIATF-South). He was joined by Secretary of Homeland Security Kirstjen M. Nielsen and other senior U.S. officials.

JIATF-South, located in Key West, Florida, is a forward base responsible for the detection and monitoring of illicit trafficking to facilitate international and interagency interdictions. JIATF-South is also responsible for combating illicit drugs and criminal networks, and enables U.S. and partner-nation law enforcement to successfully prosecute and dismantle criminal networks.

During their visit President Trump and Secretary Nielsen reviewed the Administration's ongoing efforts to combat transnational organized crime, receiving an operational briefing and tour of the JIATF-S Joint Operations Center. President Trump also made remarks during his visit to JIATF-South, thanking everyone for their service and reaffirming the Administration's commitment to securing U.S. borders and reducing crime, illegal drugs, and human trafficking.

- ***The White House***

State Surgeon of Kansas presents on modern epidemics

Dr. Lee A. Norman, the State Surgeon of Kansas, presented a lecture entitled "Modern Epidemics: Why they occur and why we should worry!" on Monday, April 23 in the Arnold Conference Room in the Lewis and Clark Center on Fort Leavenworth.

Dr. Norman spoke about public health issues the world is currently facing, such as the cholera epidemic in Yemen, as well as concerns for potential epidemics and pandemics, including diseases and viruses resistant to antibiotics and other medications. Norman focused primarily on public health concerns that are not the result of bioterrorism – diseases spread through livestock and animals, increased global travel, and the failure to properly immunize against preventable diseases, such as measles – but did review bio threats like CRISPR Cas9.

"We have to make sure we look at infectious disease patterns globally and treat and get after them at their source. Because we are in this together… We're sharing food. We're sharing vectors of disease…" said Norman.

Dr. Norman also spoke about the effect of global climate change on the spread of disease, citing long-frozen plant diseases that have been released due to melting glaciers and are now decimating crops that are not immune to the viruses. Mosquito-borne illnesses are also a growing problem due to changing climates.

Later that afternoon, Dr. Norman lead a professional development session on the challenges of modern epidemics in the main conference room at Munson Army Heath Center on Fort Leavenworth. The session was co-sponsored by Munson Army Health Center and the Simons Center, and was attended by Munson staff. At the close of Dr. Norman's presentation, Lieutenant Colonel Kathleen Flocke, MD, Deputy Commander of Munson Army Health Center, presented Norman with a coin to thank him for contributing to the professional development of the staff at Munson.

Dr. Lee A. Norman serves as the State Surgeon of Kansas where he guides medical troop sustainment and training, health services support, force health protection, biosecurity, and he serves as an advisor and liaison to emergency management and Homeland Security elements. Dr. Norman received his medical degree from the University of Minnesota, did his residency in family medicine, and his aerospace medicine training in the U.S. Air Force at Brooks Air Force Base in San Antonio. Dr. Norman has served as a chief medical officer for more than 20 years, most recently in the University of Kansas Health System, and before that in the Swedish Health System in Seattle. Dr. Norman also has two master's degrees – one in health planning and systems analysis from the University of California, Davis School of Medicine, and an executive MBA degree from the University of Washington Graduate School of Business.

This lecture was part of the CGSC Foundation's Simons Center for Interagency Cooperation "Distinguished Speaker Series." The lecture series is an extracurricular, educational lecture series that is intended to help enrich the CGSS curriculum much like the Interagency Brown-Bag Lecture Series, but with a broader focus. The CGSC Foundation and the Simons Center have received support for all distinguished speakers in academic year 2018 from Park University along with previous contributions from the Perot Foundation.

- ***Simons Center***

Ambassador McCarthy returns as DACOR Visiting Professor

Retired Ambassador Deborah McCarthy returned for a second visit to Fort Leavenworth in April, again serving as the DACOR visiting professor of diplomacy for the U.S. Army Command and General Staff College (CGSC) Class of 2018. McCarthy, who served as the U.S. Ambassador to Lithuania from 2013 to 2016, visited Fort Leavenworth 16-19 April 2018. She previously visited in December 2017.

During her visit to the area, Ambassador McCarthy guest lectured on "Women and Politics" at the University of Kansas. On April 17, Ambassador McCarthy met with 20 undergraduate students and discussed her service and career as a Foreign Service Officer. Ambassador McCarthy also spoke about U.S. policies and programs that deal specifically with women in foreign countries, as well as State Department programs and opportunities for women.

While at KU, McCarthy also took part in brown-bag presentation for KU's International Studies program, meeting with faculty and both graduate and undergraduate students. There, McCarthy discussed U.S. policy, Department of State operations, and Foreign Service Officer career opportunities as part of the Intelligence Community Center for Academic Excellence Scholars program.

For the remainder of her time at Fort Leavenworth, Ambassador McCarthy visited with students at the U.S. Army Command and General Staff College (CGSC). Over the two day period, Ambassador McCarthy met with over 80 CGSC students in five different elective courses discussing a variety of issues to include diplomacy, the Department of State, the role of an ambassador, national security policy, NATO, European, and Baltic region security concerns, economic policy, and terrorism.

Ambassador McCarthy finished her visit to the College with a brown-bag lunch with the Department of Joint, Interagency, and Multinational Operations (DJIMO), meeting with 18 DJIMO faculty members, including department chair Colonel Juan Ulloa.

The DACOR Visiting Professor of Diplomacy Program is conducted in partnership with the Diplomatic and Consular Officers, Retired, Inc. (DACOR) organization located in Washington

D.C., and the U.S. Army Command and General Staff College Foundation. The DACOR Visiting Professor of Diplomacy program for academic year 2018 has been made possible with support from the University of St. Mary and Park University.

- Simons Center

Global health security team disbanded

Rear Admiral R. Timothy Ziemer has left the National Security Council (NSC) and the global health security team he oversaw has been disbanded. Ziemer, described as "one of the most quietly effective leaders in public health," was the Trump administration's senior director for global health security and biodefense at the NSC, and he will not be replaced.

The move to dissolve the global health security team comes from national security advisor John Bolton on the same day that a new Ebola epidemic was declared in the Democratic Republic of the Congo. While a spokesman stated that the NSC "remains committed to global health, global health security and biodefense," there are concerns that Ziemer's departure and loss of the global health security team leaves the U.S. at increased risk of pandemic or bioterrorism attack.

J. Stephen Morrison, senior vice president at the Center for Strategic and International Studies, spoke on the subject, saying that "Health security is very fragmented, with many different agencies," and that "means coordination and direction from the White House is terribly important."

- The Washington Post & The Atlantic

USAID, State, DoD to release Stabilization Assistance Review

An interagency review of U.S. government stabilization efforts is expected as early as this month. The Stabilization Assistance Review (SAR) examines how the State Department, U.S. Agency for International Development (USAID), and Department of Defense (DoD) coordinate their diplomacy, aid, and military operations, primarily in Syria and Iraq.

A State Department official spoke of the SAR, saying "The SAR establishes a U.S. government-wide definition of stabilization as a political endeavor to create conditions where legitimate authorities and systems can manage conflict and prevent violence."

According to a DoD spokesperson, "The SAR specifically outlines steps to establish a State Department-led interagency process for developing political strategies for all future stabilization engagement," and will allow DoD, State, and USAID to take advantage of each other's efforts to stabilize conflicted areas.

"Our success — USAID's success — depends upon the success of the State Department in mobilizing international resources in their role, but also, of course, DoD helping us to have access and security. Without their success, we can't possibly do what it is that we seek to do," said USAID Administrator Mark Green.

Work on the SAR began in May 2017. State, USAID, and DoD – in consultation with the National Security Council – conducted research throughout 2017, finalizing the SAR in December. The SAR was distributed to congressional committees for review in April of this year and is expected to be publicly released shortly.

- DevEx

Career Minister Gottlieb joins Distinguished Speaker Series

Retired Career Minister Gregory Gottlieb, U.S. Agency for International Development (USAID), recently visited Fort Leavenworth as part of the Simons Center's Distinguished Speakers Series. Gottlieb is the Director of the Feinstein International Center of Tufts University, and also holds the endowed position as the Irwin H. Rosenberg Professor in Nutrition and Human Security in the Friedman School of Nutrition Science and Policy at Tufts University. While with USAID, Gottlieb served as the Acting Assistant Administrator for the Bureau for Democracy, Conflict, and Humanitarian Assistance.

During his time on Fort Leavenworth, Gottlieb met with the Board of Trustees of the International Relations Council of Kansas City, where they spoke about development and aid issues around the world, U.S. aid policy, USAID, and Gottlieb's past experiences in the field.

From 11-13 April, Gottlieb visited with leadership and faculty at the U.S. Army Command and General Staff College where they discussed USAID's continued commitment to sending faculty and students to the College and how CGSC Foundation-sponsored events (like the Distinguished Speakers Series) positively impact and foster interagency education and cooperation.

Gottlieb also joined faculty and students in several elective courses on the topics of U.S. Central Command South, statecraft and diplomacy, development and fragile states, and the interagency and national security. There, Gottlieb shared his expertise and experience on development issues and participated in class discussions.

The CGSC Foundation's Simons Center for Interagency Cooperation "Distinguished Speaker Series" is an extracurricular, educational lecture series that is intended to help enrich the CGSS curriculum. The CGSC Foundation and the Simons Center have received support for all distinguished speakers in academic year 2018 from Park University along with previous contributions from the Perot Foundation.

- Simons Center

Ambassador Moon returns to Fort Leavenworth

Retired Ambassador Patrick S. Moon returned to the Fort Leavenworth area in early April of this year, where he again took part in the Simons Center's Distinguished Speakers Series. Ambassador Moon, who served as the the U.S. Ambassador to Bosnia and Herzegovina from 2010 to 2013, visited Fort Leavenworth April 2-5. He previously participated in the Distinguished Speakers Series in April 2017.

On April 2, Ambassador Moon kicked off his visit with an interview by KMBZ reporter Bill Grady, where he discussed multiple issues relating to U.S. national security, Russian security threats, the State Department, and diplomacy. Short segments of the interview aired throughout Tuesday and Wednesday at the top and bottom of the hour following the news.

The following morning, Moon met with students in the Advanced Placement American Government courses at Leavenworth High School, where he talked with the students about diplomacy and national security before answering questions about the Foreign Service, State Department, and the United States Air Force Academy.

Also on April 3, Moon joined retired Ambassador David Lambertson to share their experiences on Embassy Country Teams as part of the Simons Center's InterAgency Brown-Bag Lecture Series. The two former ambassadors, with some 50 attendees present, discussed Ambassadorial expectations and Country Team operations in a foreign country, explaining how embassies are run, how the

Ambassador oversees operations in their country, and how interagency cooperation is affected, as well as reviewing the State Department and various national security issues.

On the evening of April 4, Ambassador Moon presented the scene-setter kick-off speech at the opening of the spring National Security Roundtable (NSRT). In his remarks, Moon focused on Russia, and how the U.S. might anticipate and address future security threats, particularly in the domains of cyber and space. Ambassador Moon continued his participation in the NSRT the following day, attending panel presentations and joining in on some of the discussions.

Later that evening, Moon spoke on the topic of "NATO-Russian Relations: From the Cold War to Current Challenges" at the David Theater inside Alumni Hall on the Parkville campus as part of a Park University, the International Relations Council (IRC) of Kansas City, and the CGSC Foundation co-sponsored event. The audience included the President and Provost of Park University, Park University Trustees, and Park University faculty and students, as well as several UMKC students.

The CGSC Foundation's Simons Center for Interagency Cooperation "Distinguished Speaker Series" is an extracurricular, educational lecture series that is intended to help enrich the CGSS curriculum. The CGSC Foundation and the Simons Center have received support for all distinguished speakers in academic year 2018 from Park University along with previous contributions from the Perot Foundation.

- Simons Center

DoD, agencies collaborate on space technology

The Pentagon, NASA, the Federal Aviation Administration, and the National Reconnaissance Office have come together to contribute to a review of the defense industrial base.

The four agencies make up a "space industrial base working group" that is examining how agencies could share space technology, collaborate on space-related acquisitions, and how the government purchases technology from the private sector. "With the innovation in space technology that is happening, there is growing interest in coordinating programs and requirements across the agencies," said Brennan Hogan Grignon, director of industry outreach for the secretary of defense.

The "state of the defense industrial base" report is due to be completed at a later date, and was requested by President Trump in an Executive Order calling for an assessment of the defense industrial base and supply chain.

- Space News

Ambassadors discuss country teams in Brown-Bag Lecture

Retired Ambassadors David Lambertson and Patrick Moon gave the latest presentation in the InterAgency Brown-Bag Lecture Series, speaking about Ambassadorial Expectations and Country Team Operations on April 3. During their presentation Ambassadors Lambertson and Moon shared their experiences on Embassy Country Teams and discussed an Ambassador's expectations of U.S. personnel and how Country Teams are structure and operate.

Lambertson, who served as the U.S. Ambassador to Thailand from 1991 to 1995, stated that the role of the ambassador is to "assert leadership in an informal way," cultivating relationships through trust while maintaining communication between the embassy and Washington, DC. Lambertson went on to say that those working in an embassy should be aware of the differences between organizational cultures within the Country Team, and that the rules they learned on the playground as children still apply. "Don't be a bully. Don't be a pushover. Say 'please' and 'thank you' … That

same approach will serve you well in an embassy context."

Moon served as the U.S. Ambassador to Bosnia and Herzegovina from 2010 to 2013, and served as the Civilian Deputy to the Commander of U.S. European Command (EUCOM) from 2013 to 2015. During his presentation he discussed how he guided his team, including a mission statement that he wrote and distributed to the agencies that made up his team. Moon also talked about his work at EUCOM, which included facilitating interagency briefings that brought together agency leaders and ambassadors to learn about EUCOM's role and the scope of what EUCOM was able to do.

This was the eighth presentation in the series, which is co-hosted by the CGSC Foundation's Simons Center with the U.S. Army Command and General Staff School (CGSS). The InterAgency Brown-Bag Lecture Series is an extracurricular, interagency topic-focused series that is intended to help enrich the CGSS curriculum. The CGSC Foundation and the Simons Center have received support for all brown-bag lectures in academic year 2018 from First Command Financial Services in Leavenworth, Kansas.

- Simons Center

CGSS hosts interagency course for true interagency audience

The U.S. Army Command and Staff School (CGSS), Fort Belvoir, Virginia Satellite Campus, recently concluded its elective course on Interagency and National Security Coordination to a true interagency audience. The five-week course began in January 2018 and ended at the end of February 18.

The elective is hosted through the support of the U.S. Agency for International Development (USAID) Office of Civilian Military Cooperation and the State Department's Political Military University. Students in this most recent elective course were comprised of not only U.S. Army Command and General Staff Officer Course (CGSOC) officers, but also six members from the U.S. Customs and Border Protection and USAID. Notable non-CGSOC attendees included USAID's Management Bureau Deputy Assistant Administrator, Albert Bullock, and the Director for West African Affairs, Edith Houston, along with Jessica McCullough from the U.S. Department of State, Officer Carlos Villarreal from the U.S. Department of Homeland Security, and Jefferson Science Foundation Fellow, John Muth.

The intent of the elective is to provide students with a greater understanding of the need for interagency coordination, along with the formal and informal avenues through which they are conducted. Another main focus of the course is largely unknown interagency operating environments, including Disaster Assistance Response and areas transitioning from conflict to long-term development. The course is composed of three classroom sessions that introduce participants to different elements of the "interagency." These classroom sessions are followed by two additional sessions – an Interagency Subject-Matter-Expert (SME) session conducted at USAID Headquarters in Washington, D.C., and a Roundtable discussion with senior interagency leaders from Diplomatic, Development and Defense (3Ds) agencies along with a director from the National Security Council.

The highlight of the elective course is the 3D Senior Leader Roundtable discussion. The discussion permits students to engage in a free flowing, Chatham House rules discussion with senior government officials who have served in interagency postings at the tactical, operational and strategic levels. The panelists for this most recent course included Antonelli; Dolores Brown, a senior Foreign Service officer from the State Department; Stephen Gonyea, Civilian-Military Operations Division Chief at USAID, and Mr. Alan O'Donnell, interagency integrator in the Joint Staff's

Operational War Plans Division. These panelists provided the students with lessons learned, best practices, along with personal experiences with interagency coordination at the tactical, operational and strategic levels.

Two faculty members accompanied the CGSS students at the roundtable: Mr. Fredrick Sanders, from the Department of Logistics and Resource Operations (DLRO), and DTAC instructor and course developer Lt. Col. Aric Raus. At the conclusion of the roundtable the participants and panelists took a group photo in the State Department courtyard in front of the "The Man and the Expanding Universe Fountain," where Raus and Sanders presented the panelists with the Fort Belvoir Campus CGSS Coin.

- U.S. Army Command and Staff School, Fort Belvoir, Virginia Satellite Campus

Justice announces new cybersecurity task force

Attorney General Jeff Sessions announced the creation of the Cyber-Digital Task Force on February 20. The new task force is a reflection of the Department of Justice's commitment to confronting cyber threats, and will examine the department's current cyber efforts as well as identify how federal law enforcement can more effectively accomplish its mission.

Sessions has called for the task force to prioritize meddling in elections, interference with critical infrastructure, spreading violent ideologies via the internet, mass theft of information, using technology to interfere with law enforcement, and mass exploitation of computers and other devices to attack American citizens and businesses, though the task force is not limited to these categories.

The new task force will be chaired by a senior Justice Department official and will include representatives from the several divisions with the department, the Federal Bureau of Investigation, the Drug Enforcement Agency, the U.S. Marshals Service, and the Bureau of Alcohol, Tobacco, Firearms and Explosives. Representatives from other federal agencies may also be invited to join the task force.

- Department of Justice

Ethics of Cyber Defense topic of IA Brown-Bag Lecture

Attorney General Jeff Sessions announced the creation of the Cyber-Digital Task Force on Feb. 26, Dr. Michael H. Hoeflich, the John H. & John M. Kane Distinguished Professor of Law at the University of Kansas, led a discussion on the ethics of cyber defense in the Arnold Conference Room of the Lewis and Clark Center on Fort Leavenworth. During his presentation Hoeflich discussed the ethical use of cyber weapons like Stuxnet, cyberattacks on electoral systems, and the limited options available to deter cyber attacks.

Dr. Hoeflich is the director of the new master's degree program in Homeland Security Law & Policy at the University of Kansas. He holds a juris doctor degree from Yale Law School and a Ph.D. from Cambridge University, and is an expert on cyber law, policy and the integration of the private and public sector.

This was the seventh presentation in the series, which is co-hosted by the CGSC Foundation's Simons Center with the U.S. Army Command and General Staff School (CGSS). The InterAgency Brown-Bag Lecture Series is an extracurricular, interagency topic-focused series that is intended to help enrich the CGSS curriculum. The CGSC Foundation and the Simons Center have received support for all brown-bag lectures in academic year 2018 from First Command Financial Services in Leavenworth, Kansas.

- Department of Justice

Defense, intelligence communities partner for space defense

The National Space Defense Center (NSDC) at Schriever Air Force Base, Colorado, is now operating 24 hours a day with a staff of 230. The NSDC began as a concept in late 2015 with the establishment of the Joint Interagency Combined Space Operations Center (JICSpOC).

The NSDC focuses on threats to military and spy satellites. These satellites provide communications, navigation, and missile warning for troops around the globe, as well as intercept communications and photograph enemy military and civilian sites. "Space used to be a benign environment and that's what's changed," said Colonel Todd Brost, director of the NSDC.

The NSDC joins U.S. Air Force and intelligence community personnel. "That partnership with the intelligence community is crucial," said Brost. "[The NSCD] is not an Air Force unit. It's not really even a Department of Defense unit," he explained. Brost went on to remark on the level of cooperation among the defense and intelligence personnel, saying "They all share the same vision and goals," and that conflict between the agencies has not been a problem.

- The Gazette

DoD releases FY 2019 Budget Proposal

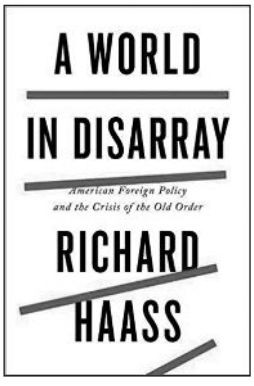
On February 12, President Trump submitted to Congress his proposed Department of Defense (DoD) budget for Fiscal Year 2019. The FY 2019 budget focuses on restoring and rebuilding America's military, requesting $716 billion for national security, of which $686 billion is designated for DoD.

The FY 2019 budget was developed to implement the 2018 National Defense and National Security Strategies. "Failure to implement or fund the 2018 National Defense Strategy will leave us with a force that could dominate the last war, yet be irrelevant to tomorrow's security," said DoD Secretary James Mattis while addressing White House reporters last week.

The FY 2019 budget increases end strength by 24,100 in the active components and 1,800 in the reserve components over the FY 2018 budget, and calls for increased warfighting investments in aircraft, shipbuilding, and ground systems. Among other increases, the FY 2019 also boasts "a competitive compensation package" for service members that "reflects the unique demands and sacrifices of military service" and includes a 2.6% military pay raise.

- Department of Defense

Book Review



A World in Disarray: American Foreign Policy and the Crisis of the Old Order

Richard Haass

Penguin Books, New York, NY, 2018, 359 pp..

Reviewed by David Anderson
Professor of Strategic Studies
U.S. Army Command and General Staff College

The author, a distinguished public servant in the President George H.W. Bush administration, an academic, writer/scholar, and now president of the Council on Foreign Relations writes a noteworthy book on the evolution of international order from the 17th century to the present. He emphasizes the current hegemonic challenges of U.S. foreign policy in a globally interconnected, complex, and turbulent environment. A world Haass sees as progressively lacking order beyond state sovereignty, pushing back on globalization, and detaching from international community affairs. Haass asserts that the U.S. needs to adapt its foreign policy to be more inclusive and collaborative with other states, and rely more on the mechanisms established in international institutions such as the World Bank (WB), the World Trade Organization (WTO), the United Nations (UN), International Monetary Fund (IMF), etc. to ensure its accustomed influence in international affairs. He concludes by proposing a new World Order 2.0 led by the U.S. that is conducive to peaceful cooperation.

He divides his book into three parts. First, Haass scans the history of international relations from the seventeenth century thru the end of the Cold War in what he calls World Order 1.0. Here he emphasizes the world order of "continuity" that existed even though there were huge differences in the scope and scale of historical events shaping and challenging it, both good and bad. He begins his survey with the Treaty of Westphalia, a seminal agreement which established an understanding among states protecting their internal affairs from interference by other states.

Haass explains that arrangements to balance power and nurture economic interdependence were not always effectively enduring during this period. When order broke down through the purposeful imbalance of power created by the likes of Napoleon and Hitler, order was later restored by agreements such as the Congress of Vienna, the Treaty of Versailles, the creation and empowerment of the United Nations, and other peace promoting international institutions. When there was the inevitable denial of the legitimacy of such arrangements, diplomats eventually restored order with

another established pact, brokered to ensure balanced and peaceful coexistence among states.

The Cold War was conspicuously characterized by geopolitical restraint among rival powers (the U.S. and the U.S.S.R.) with opposing governing and economic philosophies, along with enough nuclear weapons to blow up the world many times over. It was also the era of "liberal democratic order," when newly established international institutions came into being to broker peace, human rights, promote economic growth and development, protect the environment, and resolve conflict/friction among states.

In the second part of the book Haass reflects upon the regional and global transformation of the past twenty-five years. He highlights U.S. global primacy and its role in shaping U.S. foreign policy. He notes the high and onerous expectations that other states and international institutions have had of the U.S. as the premier global.

With the rise of China, he emphasizes the growing importance of a harmonious China/U.S. relationship – from trade/economic and environmental protection, to human rights and statecraft. The trend toward nationalism and internal focus among states, particularly regarding economics and national security matters, Haass underscores as concerning and detrimental to world order. He offers that this phenomenon has undermined the effectiveness of nearly all international institutions and the neighborly rapport among states.

He offers the WTO Doha round of trade talks as one of many notable examples of how world order is breaking down. Because of the lack of consensus on how to resolve numerous trade issues, the Doha round has yet to conclude, even after 17 years of trade negotiations. The U.S. threat/withdrawal from other multilateral trade pacts such as the North American Free Trade Agreement and the Trans Pacific Partnership are others referenced.

The author conducts a cursory yet insightful regional survey of the multitude of diverse diplomatic challenges, conflicts, and issues facing states and therefore, interstate relations. They range from proxy wars such as Iran's support of Hezbollah against Israel and Russia's support of ethnic Russians in Eastern Ukraine, NATO/Russia friction, climate change, cybersecurity, India/Pakistan strife, immigration policy, government corruption, terrorism, nuclear weapons proliferation, and poor governance in the developing world. Ultimately the resistance of globally influential states to cooperate, largely due to their diverging interests has exacerbated the situation. Haass astutely points out that legitimacy and effectiveness are not automatically tantamount to success.

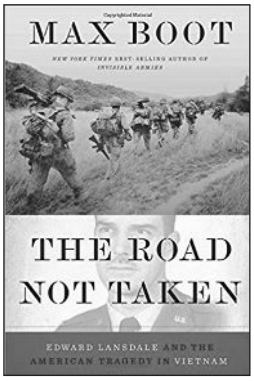
In the third and final part of the book the author proposes a way ahead in implementing a much needed rewrite of international order – a change that is more inclusive and ready to meet the global challenges of today and well into the future (World Order 2.0). He believes it requires every state to do away with manipulative practices that create unfair advantages in such areas as trade whereby countries artificially lower the value of their currency or subsidize production, therefore creating a deceitfully derived cost advantage. In essence, he makes an appeal for all states to put their mutual interests in front of their sovereign interests. He describes it as a "sovereign obligation," a decree to set aside major-power rivalries (e.g., the U.S., Russia, and China), economic competition, and conflict, for cooperation and consensus building for the greater collective good of the global community.

He calls for the full integration of China in the international affairs and a renaissance in empowerment of international institutions that is rules based, power balancing, and striving for economic interdependency among states. He reiterates that World Order 2.0 requires the U.S. to be a leader of conscience and to use restraint in expanding upon its strategic interests (e.g., not

extending an invitation for NATO membership to Georgia and Ukraine, considered a provocative act by Russia) for the greater good.

Haass recognizes a need to maintain a strong and capable U.S. military, but stresses the necessity and urgency for the U.S. to properly address its growing government debt. He sees a requirement to reform the Medicare, Medicaid, disability, and welfare programs. Finally, he emphasizes the importance of tackling chronic U.S. balance of trade issues, the U.S. loss of business competitiveness, the widening income gap among Americans, an undereducated labor force, and retraining a displaced labor force. All of these issues in combination with the U.S. debt issue weigh down or weaken U.S. global leadership.

This book is written by a visionary in the international relations/affairs field. It is rich in historical insight and is seamlessly woven together in support of his thesis. His analysis is judiciously informed, and ideas are substantive, compelling and persuasive. He purposefully cites critical works in the field that further heighten and enlighten the reader's experience in understanding this broad, sophisticated subject. His friendly, conversational style of communicating often complex topics will have universal appeal to readers. The book is a must read for those working at the highest levels of the U.S. government, military leaders, academics, students, and practitioners alike. It will also be of value to those looking to be smartly informed on the important issues shaping the world and U.S. foreign policy. ***IAJ***



The Road Not Taken: Edward Lansdale and the American Tragedy in Vietnam

Max Boot

Liveright Publishing Corporation, 2018, 768 pp.

Reviewed by Kevin Rousseau
Distinguished Chair for National Intelligence Studies
U.S. Army Command and General Staff College

The scope of *The Road Not Taken: Edward Lansdale and the American Tragedy in Vietnam* is broader than the title suggests, mainly because of the larger-than-life subject of this very readable biography. A former advertising man, Army officer, operative with the Office of Strategic Services, CIA station chief, and finally an Air Force General, Lansdale played important if unheralded roles in America's involvement in the Philippines and Vietnam. Max Boot, a well-known Senior Fellow at the Council on Foreign Relations, argues that Lansdale's ideas on how to conduct a counterinsurgency enjoyed temporary success but eventually went unheeded as America chose the wrong road in Vietnam. Boot traces Lansdale's life to analyze the American counterinsurgency experience as seen through the eyes of perhaps one of its most misunderstood practitioners.

Boot succinctly covers Lansdale's early years, from his college days at UCLA, through his work in the California advertising industry (where he first practiced strategies for influencing people's opinions), to his time in Manila advising the Philippine government and helping Ramon Magsaysay get elected president. Lansdale's experience repressing the Huk rebellion in the Philippines was a pivotal one for him. Boot ties all this background together, noting that given Lansdale's work as an adman, it's no surprise that in Manila he embraced psychological warfare "a discipline that had grown concurrently with the advertising industry."[1] It was in the Philippines that Lansdale further developed his ideas on fighting a "political war" and earned his reputation as a "kingmaker."

It was this reputation that caught the eye of CIA Director Allen Dulles, who after the French defeat at Dien Bien Phu called upon Lansdale to go to Vietnam and repeat the success he had in Manila. This brought Lansdale to perhaps the most unique role he would ever fill, that of Chief of the Saigon Military Mission (SMM). Serving in that position from 1954 to 1955, SMM was a CIA station established to run the military side of its counterinsurgency operations, or "pacification" as it was then called. Boot explains that it "was natural in this era for the CIA to take the lead in filling the political vacuum—a mission that in another period would have gone to the State Department or the armed forces. There was already a CIA station in Saigon, of course, but the Dulles brothers wanted a political warfare expert on the spot."[2] Boot makes the significance of this role clear, for as SMM chief "Lansdale became the regular CIA liaison to Diem, which, given the power that the CIA then wielded in American foreign policy, made him in effect the chief American interlocutor with the leader of South Vietnam."[3]

One of the strengths of this book is that Boot's research draws on many excellent sources, including personal interviews, private letters, official histories (such as declassified CIA histories by Thomas Ahern), and other declassified material analyzed here for the first time.[4] Boot's account

of the SMM, for example, benefits from his use of documents "the full text of which was not declassified until 2014."[5] If the book has any weakness, it would be a tendency to somewhat oversell Lansdale's importance. Boot insists that "it is no exaggeration to suggest that the whole conflict, the worst military defeat in American history, might have taken a very different course…if the counsel of this CIA operative and Air Force officer had been followed."[6] Despite all the evidence presented, it's not entirely persuasive that the fate of Vietnam rested so heavily on Lansdale's shoulders. Boot does quote more tempered analysis from other authors, such as Ahern's history, which notes that Lansdale's departure from Vietnam "marked the end of an era," taking with him whatever modest capacity the United States had to persuade Diem of the need to win the consent of the governed.[7]

Lansdale never committed to paper the whole of his views on counterinsurgency, but Boot concludes his book by distilling for us some lessons as Lansdale might have written them. He lists these simply as three "L"s; Learn, Like, and Listen.[8] "Learn" tops Boot's list, and familiarizing oneself with the country one is posted to, and genuinely liking the people there, was obviously important to Lansdale. Boot is not without his criticism of Lansdale, and throughout the book it is evident that Lansdale undermined his own effectiveness through his unconcealed impatience with bureaucracy and tendency to rub colleagues the wrong way. Boot points out that Lansdale was renowned for his capacity to listen patiently to his host nation interlocutors, but ironically never seemed to grasp that he needed to listen and win over his own countrymen as well.

Lansdale may never have committed his counterinsurgency ideas to paper in a comprehensive study, but in the end his legacy lies in the example he set. Lansdale and his mastery of acquiring detailed local knowledge "should serve as a model for other soldiers, intelligence officers, journalists, aid officials, and diplomats who are dispatched to foreign lands."[9] Max Boot's biography is a good place for an interagency audience to study that model, and draw their own conclusions. ***IAJ***

NOTES

1 Max Boot. The Road Not Taken: Edward Lansdale and the American Tragedy in Vietnam, (New York: Liveright Publishing Corporation), 2018. 126-127.

2 Ibid. pg. 194.

3 Ibid. pg. 210.

4 For a brief but balanced discussion of the "two CIA voices in Saigon," see Thomas L. Ahern Jr., Vietnam Declassified: The CIA and Counterinsurgency (Lexington, University Press of Kentucky), 2010, 9-14.

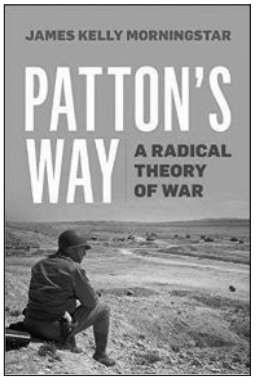
5 Boot pg. XLVIII.

6 Ibid. pg. XXXIX.

7 Ibid. pg. 298.

8 Ibid. pg. 604.

9 Ibid. pg. L.



Patton's Way: A Radical Theory of War

James Kelly Morningstar

Naval Institute Press, 2017, 404 pp.

Reviewed by Col. Todd Schmidt
Military Research Fellow
Arthur D. Simons Center for Interagency Cooperation

For World War II historians and General George Patton enthusiasts, a recent book published by James Kelly Morningstar, is worth the read, offering a unique theory and biographical sketch of Patton not yet explored. For current, young military leaders, Morningstar's study resurrects Patton in an easily digestible volume and brings him into relevance in the 21st Century. For those interested in understanding the foundations of many current tenets of Army doctrine, Patton's Way: A Radical Theory of War, offers insight into how an oft misunderstood figure of WWII pioneered doctrinal concepts that we practice today – "mission command," joint and combined arms operations, shaping the operational environment and fighting large-scale combat operations.

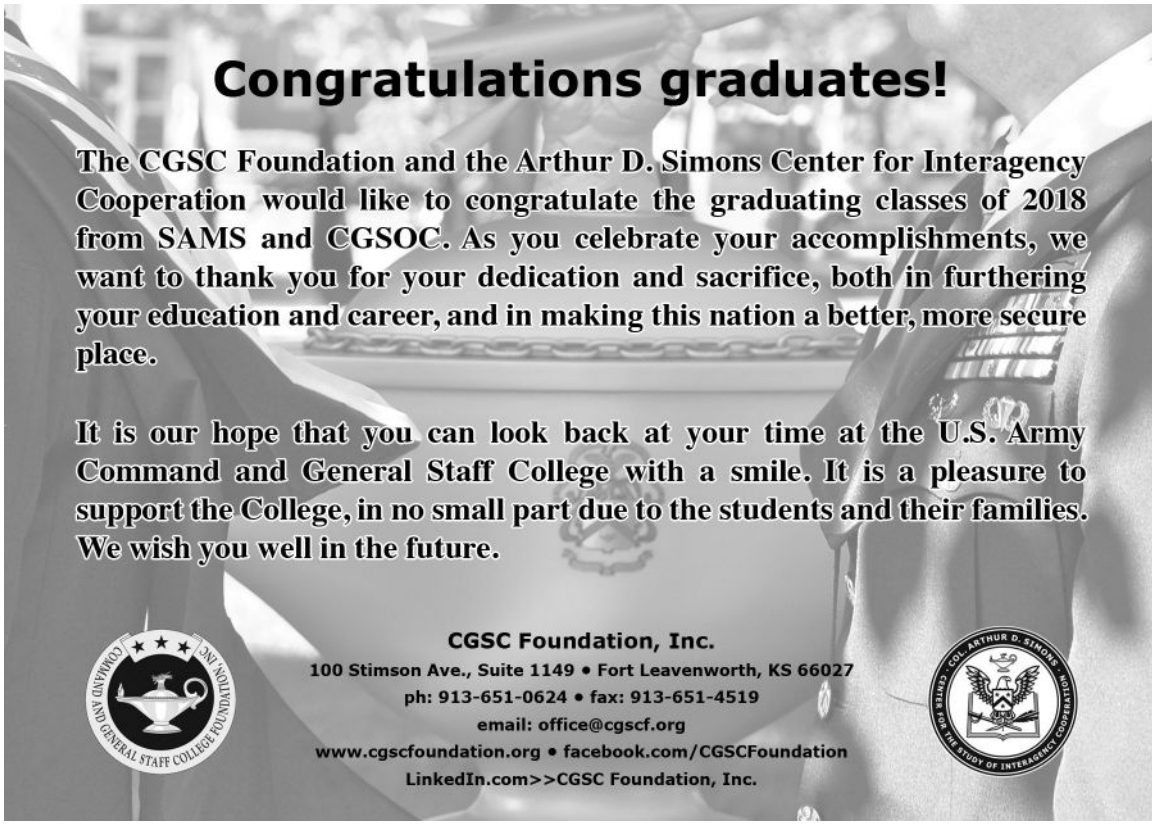
Morningstar, a West Point graduate, is an Army combat veteran of the Gulf War, where he served as a Tank Company Commander. Following the Gulf War, he served in a wide range of assignments from Germany, to Bosnia, to Washington, D.C. Following his career in the military, he taught Military Science at Georgetown University and, currently, teaches history at the University of Maryland. In his first book, he presents nearly five years of research, providing a theory of Patton and Patton's way of war that suggests Patton was ahead of his times, ahead of his peers and often his own worst enemy.

The heart of the book is a case-study analysis of Patton's time as Commanding General of the U.S. Third Army and the breakout from Normandy. It is organized according to Morningstar's assertion that Patton's way of war was "crafted from revolutionary ideas on strategy based on shock, combined arms operations, flexible command and control and integrated intelligence systems." These concepts, familiar to today's military and captured in its doctrinal publications, were unorthodox and ground-breaking in Patton's era.

Familiar biographical works present four over-arching theories of Patton. He is a risk-taker, the "lucky gambler" and swashbuckling cavalry officer of legend. He is America's first great "tank commander" and tactician. He is the untamable attack dog, unleashed by his superiors in times of need. Finally, he is a "win at all cost" general, driven by ambition and a will to succeed. In nearly all these theories, Patton is cast as a dramatic, costumed maverick, unwilling or unable to comply with his superiors and current doctrine. Morningstar refutes these theories, while supporting many of their descriptions of the man. Morningstar's Patton is romanticized as unrestrained by norms, a "modernist whose rapid, bold strokes contradicted the craftsman's traditional philosophies and practices and confounded conventional critics." Patton is a renaissance man, an unappreciated genius with an innate tactical and operational understanding for battle, a coup d'oeil, that set him apart from his peers.

The major contributions of this volume reside in how Morningstar reviews the current literature on Patton and refutes long-standing representations and simple caricatures with well-researched and documented anecdotes from Patton's life. The author adds to the knowledge and history surrounding Patton as a controversial historical figure, most importantly, through detailed and wide-ranging excerpts from Patton's own writing. With the help of the author, the reader sees the General through his own eyes in the valuable collection of passages from Patton's articles and publications.

Following the more traditional case-study chapters, the author concludes with chapters that capture Patton's legacy. Morningstar drives home Patton's contributions to contemporary Army doctrine, a doctrinal approach to war that was lost in the years following Patton's death and a generation of political generals that approached warfare from an orthodox, traditional mindset that evolved only after suffering significant set-backs and growing pains during the last half of the 20th Century. In the end, the reader comes away with a greater respect for Patton, both as a warrior and a student of war. The biography serves as a reminder for the importance of life-long professional development, as well as discipline in character and action, both on and off the battlefield. Finally, Morningstar demonstrates that Patton's leadership continues to echo in our current doctrine and battlefield challenges. ***IAJ***



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