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Doug Brooks

# How Many is Too Many?

## A Cornucopia of Contractors - Not Necessarily a Bad Thing

04



*A cast of thousands. Photo: Stock*

**M**UCH has been made of the number of contractors — who currently outnumber the international soldiers — deployed in Afghanistan or Iraq. But is this a bad thing? Do these large numbers of contractors actually undermine the missions? Is this news at all?

“Contingency contractors” provide a myriad of services critical to peacekeeping and stability operations. Construction, logistical support, cleaning, maintenance, water purification, airlift, healthcare, waste disposal, training and yes, even security, are all tasks that need to be accomplished on a large scale in these sorts of missions to ensure success.

If contractors were not doing these jobs, the militaries sent to implement the policies would have to bear the burdens — in addition to carrying out their actual mandate enforcement. Yes, militaries can and indeed do carry out these tasks as well. But does that mean they should? Is that the optimal use of their skills and capabilities? Are they able to complete these jobs better, faster and/or cheaper than contractors? Too many policy makers are unclear on these issues and appear to believe that the military should be doing the hundreds of civilian-level

tasks, in addition to fighting wars, providing regional security and securing the local population against insurgents.

To put this issue in context, few people know how many contractors it takes to build a house, but they can absolutely asses if those contractors do high quality work. Does the roof keep the rain out? Does the hot and cold water work? As with domestic contractors hired to build our homes, it is quality, not quantity that counts in contingency contracting. Although the conflicts in Afghanistan and Iraq are not the same as a house on Main Street, some of the same principles apply. Who questions the number of native or foreign workers that built their house as long as it is still standing at the end of the day?

We should also remember that large numbers of contingency contractors are not new. Hundreds of thousands of contractors were employed in the Second World War, and as many as 80,000 in Vietnam at one point. One reason we do see a greater proportion of contractors today is because so much construction and reconstruction is occurring at the same time as the conflict. In past wars, most reconstruction activities occurred only after the large scale fighting had

ended and thus we rarely saw the military and private contractors sharing the battle space.

Many negative reports also suggest that contractors are all Westerners earning massive salaries. The reality, too often ignored by the media, is that only a small minority of contractors are 'highly paid' Westerners. With companies in competition, the only way to be more cost-effective than their rivals is to hire local nationals for as much of the contract as possible. If not locals, third-country nationals (TCNs) are used, usually earning much more than in their home countries, but still costing the mission a fraction of what Western contractors cost, and an even tinier fraction of the costs of a deployed Western soldier (estimated at \$15,000 – \$25,000 per month). Furthermore, a civilian from a developed country hired to leave home and work at great personal risk for months or years at a time does require a higher salary than one would receive at home (even if it is still below the level of the most vocal critics condemning them from the safety of their home countries). It is a fact that because contractors make the best use of available personnel they save us enormous sums of money and make our foreign policies





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significantly more cost effective and thus more likely to succeed.

Much of the work entrusted to contractors is reconstruction work, a task best completed by local firms. For prime contractors who take the lead on projects, usually from Western countries, the trick is to find local subcontractors who have the technical capability not only to undertake the required jobs, but to ensure proper reporting and oversight for when Congress and other oversight bodies come calling. Vetting, quality control and other issues are also important to ensure that a contract is carried out successfully and that the client is satisfied with the work.

Contractor preference for hiring local employees and subcontractors brings additional benefits as well. Locals working for contractors increase their skills and business acumen, all useful for reconstructing societies: and their paychecks help stimulate the economy (this was

covered at length in my last piece, "Think Globally. Hire Locally," *Journal of International Peace Operations* Vol. 5 No. 3 (November/December, 2009)). Information is readily available on the subject, and if industry critics would be honest about the largely local composition of contractor personnel, perhaps at least some of the outrage at contractor numbers would be deflated.

This is not to minimize the reality that contractors can lie, cheat and steal — which is precisely why IPOA supports good laws and strict oversight. Weeding out the less capable or professional companies actually benefits those companies that do their jobs professionally. Bad things can also happen to the best companies, but the way in which they address those problems and work to ensure that they are not repeated is what sets the better companies apart from the pack. I have made this point before and I will recite it again: The military operations in Afghanistan and Iraq have been the best supported and supplied in history.

This does not mean there will be instant success, but it does ensure that the military has been better able to focus on their mission than ever in the past. And with military numbers in the field far below the level of past conflicts, this key point should not be overlooked.

Ultimately, successful policies should be the focus of our concern, not the numbers of contractors engaged to achieve a mission. The contracting community should be seen as a partner in making successful policies; if they were not there, the jobs would have to be entrusted to already overstretched militaries. Minimizing the role of contractors substantially increases costs and decreases the potential to support local employment and benefit the local economy. The value of contractors in stability operations is obvious; the bizarre concern about their numbers, while ignoring cost effectiveness, quality and progress towards the actual mission success is absurd. ■

## New Business Development Manager Joins IPOA



Melissa Sabin. Photo: IPOA

IPOA is pleased to announce that Melissa Sabin has joined the IPOA Headquarters staff as Manager of Business Development.

Melissa returns to IPOA after a stint of business development and recruitment at Catapult Consultants, an Arlington, Virginia-based financial management, acquisition management, program management and information assurance firm serving U.S. government agencies. Prior to this, Melissa was an External Relations Associate at IPOA.

Previously, Melissa was a correspondent in Beirut, Lebanon and Fez, Morocco for *Sayidaty* (a pan-Arabic women's magazine) and the *Middle East Reporter*, also in Beirut.

Melissa's academic background includes a joint degree in International Affairs and Middle Eastern studies from the Elliott School of International Affairs at the George Washington University and Diplomacy and International Affairs studies at Seton Hall University in New Jersey. Melissa is also conversant in Arabic. ■





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George Joffé

# The al-Houthi Rebellion

## The History Behind Yemen's Long-Simmering Rebellion



The conflict in Yemen is leading to a refugee and IDP problem. Photo: L. Chadrawi/UNHCR

SINCE 2004, the Ali Abdullah Saleh regime in Sana'a, Yemen has been confronted by the steadily escalating al-Houthi rebellion, based in the northern city of Sa'ada. Because most of the rebellion's supporters come from the minority Za'idi sect of Islam, some commentators (ignoring the fact that the president of Yemen is himself a Za'idi) have seen the rebellion as an implicit sectarian conflict. This, however, is to ignore the many tensions the regime faces, including both religious and secular factors, and an incipient rebellion in the country's south. It also overlooks the fact that governance in Yemen has always been a contingent affair, given the uncertain reach of government power beyond the capital and major towns.

The argument, however, cannot be ignored. Today — in the wake of an Iranian offer of mediation — the Yemeni government insists that the rebellion is a manifestation of growing Iranian interference in regional affairs, directed against Saudi hegemony in the Peninsula. Now that fighting has spilled over the Saudi Arabian border, the Saudi government would no doubt agree. However, a close examination of the origins of the rebellion itself leaves little doubt that its causes are primarily domestic in nature.

It is difficult to avoid the impression that the Yemeni government is now struggling to keep control of the country, mainly due to its handling of the al-Houthi rebellion. The rebellion, which began in the middle of this decade, was, in essence, a protest against the pro-American policies of the Saleh regime that has governed Yemen for the past 39 years. Led by Husayn Badr ed-Din al-Houthi, it was unlike the majority of uprisings in recent years as its leader had been a parliamentary deputy between 1993 and 1997. Al-Houthi founded a new movement called the Sha'ab al-Muminin (the Young Believers) and acquired significant religious status amongst the Za'idi population of northern Yemen. He was known to be a violent opponent of al-Qaeda's transnational terrorism because of its treatment of the Shi'a in Afghanistan; and the United States and Israel, believing that both countries were a threat to Islam in the Middle East — and that the United States intended to invade Yemen. Although the Yemeni government insisted that he was supported by Iran, his brother (also a member of parliament and strongly opposed to his brother's views) has rejected this.

Al-Houthi himself had a particular animus against President Saleh, whom he held

responsible for Yemen's aforementioned pro-American policies. This set off the insurgency on June 18, 2004, a mountain-based revolt that spread into Sa'ada. It is estimated that, originally, al-Houthi's active supporters only numbered between 1,000 and 3,000, but many Yemenis, particularly Za'idis, sympathized with his views. Thus, when the Yemeni army surrounded Sa'ada, there was a popular rush to oppose it because it was seen as largely Shafi and an instrument of repression.

The government also raised the specter of Iranian support of the rebellion, although there has never been evidence of this or of contact between the Za'idis and Iran. Iran's sole concern seems to have been the more generic issue of Shi'a persecution, expressions of concern limited to offers of mediation. Indeed, Iran has not had significant influence in Yemen since the Islamic revolution.

Al-Houthi himself was killed in Sa'ada in September 2004, but the movement and the resistance continued — though its temporary suppression cost at least 1,000 lives and an estimated \$1 billion. Its continuation was a measure of the disaffection felt toward the Yemeni



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A long winding road to peace in Yemen. Photo: U.N.

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government over being enmeshed in America's "war on terror" as much as it was a statement about the domestic tensions within Yemen. It was taken over by al-Houthi's father, Badr ed-Din al-Houthi, a Za'idi mullah. Active resistance resumed in March 2005, despite government claims that the group's leader had surrendered at the end of September 2004.

Even though the rebellion was disavowed by the powerful al-Islah party (a moderate Islamist formation that plays a major part in the opposition in the parliamentary system), as well as by extremist Sunnis, it was able to collaborate in the Joint Meeting Party — a coalition to confront the president in elections set for September 2006. The rebellion also worked with the Hizb al-Haqq, a Za'idi political party. This all suggests that the rebellion was not quite as isolated as the government pretended.

Despite an amnesty in September 2005, the violence continued, the government arresting and detaining the movement's supporters. At the start of January 2006, al-Houthi supporters began to attack pro-government tribes. The group claimed to now be fighting for compensation from the government for the damage it had caused. The government abandoned attempts at further conciliation.

The level of ferocity with which the central government reacted to the al-Houthi rebellion suggests that it had touched very sensitive official nerves. The president seemed to take the rebellion as a personal affront to his authority and ordered its suppression at all costs, even though it was not originally a direct threat to his regime.

Although the government turned the full weight of the Yemeni army against the rebels — leading to the displacement of 40,000 local residents — by early May 2007, it had failed to suppress the uprising. Indeed, in June 2007, the president asked Shaykh Abdullah Bin Hussain al-Ahmar, the speaker of the Yemeni parliament, leader of al-Islah and paramount sheikh of the Hashid tribal

federation, to mediate a solution. He too was unsuccessful.

Since then, there has been continual fighting, despite two attempts by Qatar to mediate a lasting truce. One respite lasted from June 2007 until the following February, but was punctuated by bouts of violence. Although hostilities died down again in May 2008 and a new ceasefire went into operation in August, they exploded again in late May 2009 and fighting has continued ever since, with up to 150,000 persons displaced. Now the al-Houthi group have declared that they seek to expand their control from the north to the south of the country.

This is a serious threat to the regime, as the al-Houthi movement has begun to influence tribal confrontation between some Bakil tribes, who support the rebels, and the Hashid federation. This, in turn, reflects another squabble, this time within the regime. President Saleh is trying to arrange for his son, who commands Yemen's Special Forces, to succeed him — a move the Hashid federation so opposes that they may turn on the president and join the rebels. There is, therefore, a serious danger that the rebellion could now threaten the state, adding to the already pressing issues of terrorism and the former supporters of the old Marxist state of South Yemen calling for secession.

It is, no doubt for this reason that the Yemeni army's tactics — in what is now the sixth attempt to crush the rebellion — are said to be completely unrestrained. Surrounding states consider the situation to be so severe that the Arab League is threatening to intervene and attempt to arrange a ceasefire. And, quite apart from the domestic implications of the conflict, it now threatens to spill over into Saudi Arabia. In early November 2009, Saudi aircraft bombed alleged al-Houthi military positions in Saudi territory, ground forces then pushing the rebels back into Yemen. The danger is now that Saudi Arabia may decide that Iran is indeed involved, and by provoking the Islamic Republic over this alleged involvement, turn fictional involvement into reality. ■



# Aid to Somalia: The Best and Only Option

## The U.S. Must Move Away from Good Governance for the Good of Somalia



*Some modest requests. Photo: Milton Grant/U.N.*

**T**HE United States has two prevailing strategic interests in Somalia: eliminating the threats of piracy and “terrorism,” such as that perpetrated by al-Shabaab, the leading rebel group in Somalia. Consecutive U.S. administrations, including the current one, have concluded that the antidote to these threats lies in establishing a friendly central government in the country. However, for nearly two decades, the United States has utterly failed in endeavors to achieve that. The best the United States can do now — and probably could ever have done — is to alleviate the country’s humanitarian crisis.

Currently, the United States supports Somalia’s Transitional Federal Government (TFG), a body that is dysfunctional at best and completely defunct at worst. Despite the high hopes that followed the installation of a new president at the beginning of 2009, by May the government was hanging by a thread. In truth, the United States supports a government that survives only because of international backing and the African Union’s (A.U.) peacekeeping mission AMISOM. Furthermore, Somalis are so disillusioned with the United States that, rather than bolstering the TFG, U.S. support undermines the government and serves as

a rallying point for the insurgency. It is time to admit that this emphasis on governance is not working.

Even after 18 years, the United States still fails to understand the power dynamics within Somalia, rendering the shaping of its powers into a functional government virtually impossible. Specifically, strong centralized governance, as an objective, flies in the face of the Somali tradition of decentralized and fragmented authority. In accordance with their misguided understanding, the United States has pursued several inappropriate policies.

First is a dogged unwillingness to acknowledge the autonomous and semi-autonomous regions of Somaliland and Puntland. Wary of upsetting Mogadishu, the United States, in conjunction with the United Nations (U.N.) and the A.U., insists on preserving the integrity of old border lines, and thus cannot formally recognize the strides that those regions have made. Reluctance to view these fragile yet extant governments as legitimate prevents the United States from encouraging their efforts and presenting them as examples for the government in Mogadishu.

Second, U.S. support for the TFG is, in

part, an attempt to contain al-Shabaab, whose reach covers most of south-central Somalia. However, al-Shabaab owes its power not only to fear and intimidation, but also to its hostility towards the U.S.-backed government. The major force bonding the group together has been opposition to the TFG. Barring that, al-Shabaab lacks cohesion; indeed, its nationalist goal might disintegrate were it to gain power. Its strict interpretation of sharia does not appeal to many Somalis, who traditionally subscribe to more moderate Islam; and tensions are increasing between al-Shabaab and other Somali Islamic rebel groups. Ironically, the best way to undermine al-Shabaab may be to let it attempt to assume central control, allowing competing factions to bring about the implosion of the movement. Of course, U.S. support of the TFG precludes this option.

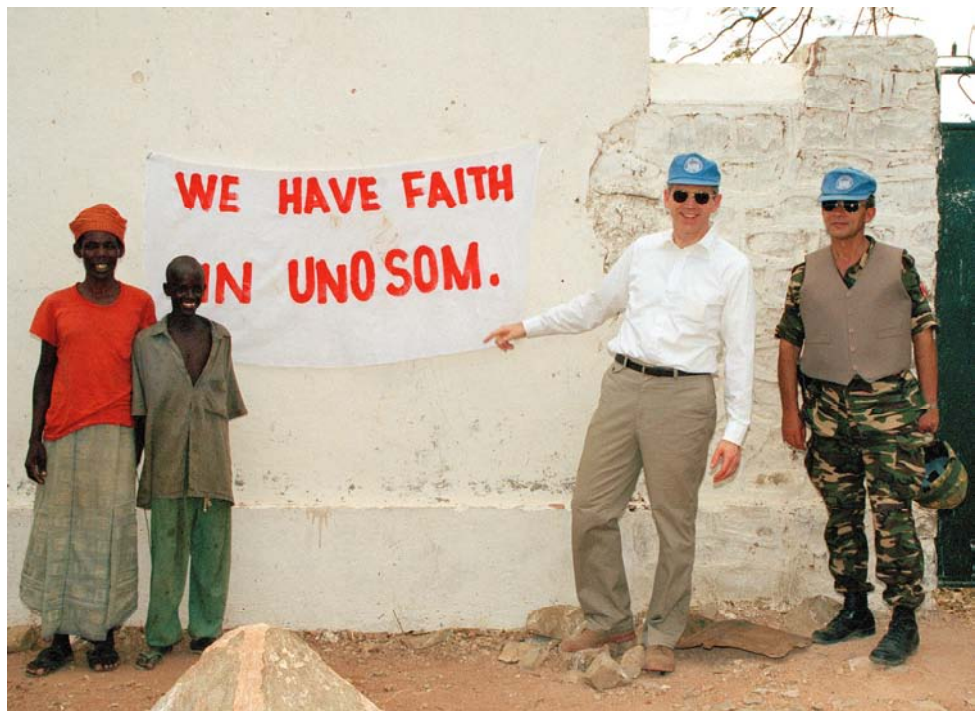
Third, a commitment to governance of any kind in Somalia rests on the supposition that there is the political space to make it happen. Some have proposed that, rather than the “top-down” approach the United States has been advocating, a grassroots effort is necessary. The challenge, however, is that grassroots do not exist in Somalia.

Neither a top-down nor a bottom-up approach will work because — partially due to the security situation — there is no democratic base on which to build. Achieving participatory democracy is extremely difficult when an already-vulnerable population is under the constant threat of attack and displacement. Consequently, U.S. policy needs to address the humanitarian situation before it can begin to think about governance.

Sadly, the ebb and flow of humanitarian crises in the Horn of Africa is at a peak right now, due to conflict between the TFG, al-Shabaab, and other rebel groups, and to high food prices and environmental conditions. Half the Somali population — about 3.6 million people — is in need of food aid. Approximately two million people have been displaced; a quarter of whom are seeking refuge in neighboring countries. The devastation of these combined catastrophes is said to be the worst since the crisis of the early '90s, which back then was enough to merit the deployment of U.S. troops.

However, the disaster of that operation, culminating in *Black Hawk Down*, has made the U.S. government reticent to get involved in Somalia, as well as in other areas of the continent. Yet, even beyond the moral obligation, one could make a strategic argument for a more aggressive intervention: providing humanitarian assistance could help to boost the tarnished U.S. image. Governance efforts have not done much to woo the Somalis. It may be better to aid a desperate population in the hope that one day it will lead to stability.

Of course, aiding the population is no easy task in such a lawless and violent environment. Humanitarian action has always been constrained by security concerns; agencies must strike a balance between alleviating suffering in the worst conflicted areas and ensuring the safety and effectiveness of their staff. Sadly, humanitarian space is more limited in Somalia than in many other crisis zones. Beyond security issues, political issues, both in Somalia and in the United States,



*Them's were the days... Photo: M. Grant/U.N.*

now cloud the impartiality and independence upon which humanitarian action has traditionally been based.

Meanwhile, al-Shabaab is flexing its muscles, issuing several rules for humanitarian agencies to follow, such as not to promote democracy; to remove logos and flags from vehicles and bags of food aid; to fire all female employees; to not take Sundays off; and to pay a \$20,000 registration fee twice a year. All food aid must be purchased locally, so as to bolster Somali agricultural production. While this may be a desirable goal, the immediate effect is to hamper aid operations. The extent to which these regulations are enforced is questionable; yet clearly, they serve as an indicator of al-Shabaab's ambition.

But al-Shabaab is not the only actor suffocating humanitarian action. In March 2009, the United States halted aid to Somalia because of concerns that al-Shabaab and its affiliates were turning a profit from the food aid. Following a review of the situation, the U.S. government agreed to reestablish aid providing that humanitarian organizations would comply with a series of strict conditions, which precluded agencies from operating in the most desperate regions of Somalia — areas controlled by al-Shabaab. This effectively compromises, even negates,

the humanitarian principle of determining aid based on need rather than politics. To their credit, aid organizations have been resolute in their refusal of U.S. funds.

By wavering in its support of humanitarian action, the United States throws away its only opportunity to play a productive role in Somalia. Certainly, in conjunction with humanitarian relief, the United States can encourage — and pressure, if necessary — countries in the region to behave in a more constructive manner. Border control — containing and preventing the flow of arms, ammunition and foreign jihadists, while allowing the free passage of refugees — will be an essential element of this approach. In addition, the massive Somali Diaspora is a largely untapped but influential resource. Any direct U.S. meddling in Somalia's political affairs will likely be ineffective and counterproductive.

For now, rather than saving an un-savable government, the United States should be devoting its resources — both financial and diplomatic — towards expanding the humanitarian effort and the space within which it operates. Addressing the humanitarian crisis is not just a moral or strategic issue: it is the best and only option. ■



# From Sea to Shore

## Somali Piracy Requires a Solution on Land



*Shipping arms takes on a whole new meaning. Photo: Specialist 2nd Class Jason R. Zalasky/U.S. Navy*

SINCE the spike in piracy off the coast of Somalia in 2008, the United States and other international stakeholders have achieved moderate success employing a range of counter-piracy methods at sea. A series of U.N. Security Council resolutions passed in 2008 authorized states or regional organizations to conduct counter-piracy operations on the high seas and in Somali territorial waters, eventually authorizing “all necessary measures” appropriate in Somalia, provided they are undertaken with the cooperation of Somali Transitional Federal Government (TFG).

The multinational naval presence in the pirate-infested Gulf of Aden and Indian Ocean presently consists of approximately 30 warships contributed by Combined Task Force 151 (CTF-151), the EU’s Operation Atalanta, NATO’s Operation Ocean Shield, and navies from countries such as Russia, India, China, Iran and Japan. Advances in the application of non-lethal ship defenses by the shipping industry have resulted in 80 percent of attempted pirate attacks being foiled without assistance from warships on patrol. Between January and September 2009, attempted pirate attacks had a one in five chance of success, largely due to naval patrols and increased merchant

vessel protection.

Still, pirates continue to stalk ships off the coast of Somalia. Their operations have escalated in frequency and range, all at cost to global maritime commerce. Compared with 111 attacks during the entire year of 2008, there were 168 attacks in the first nine months of 2009. Pirates operating in these waters have expanded their operations as far north as Oman and as far south as the Seychelles and Madagascar — with attacks occurring up to 1,100 miles from Somalia’s coast. At a time when the shipping industry struggles to recover from the global financial crisis, piracy imposes costs exceeding hundreds of millions of dollars per year — costs that have been passed on to consumers worldwide who depend on goods traversing these waters.

Meanwhile, Somalia remains in a persistent anarchic state. The social services and security sector institutions that would have ideally protected the country, its resources and its citizens against internal and external threats disappeared with the collapse of the state nearly two decades ago. Without a local maritime security force to counter illicit activities at sea, foreign fishing trawlers have been able to poach an estimated

\$300 million worth of fish each year, destroying the livelihoods of Somali fishermen.

The security and governance vacuum resulting from the state’s collapse created a permissive environment for the symptoms of land-based malaise to be projected out to sea. Somali pirate attacks have taken place proximate to a key sea line of communication, Bab el-Mandeb, which connects the Red Sea to the Gulf of Aden. Approximately 8 percent of the global seaborne oil trade traverses this maritime chokepoint annually. In a war torn country where the average Somali earns \$650 per year, pirates can earn up to \$10,000 per raid. Without a functional Somali coast guard or navy to prevent pirates from preying on ships, piracy remains a lucrative enterprise with high, reliable profits and insufficient risk or punishment to deter continued attacks. And even with an increased foreign naval presence, there are simply not enough ships to indefinitely patrol the 2.5 million square miles of water that border Somalia’s 1,800 mile coastline.

Despite evolving counter-piracy methods adopted by the United States and others, sea-based methods to combat piracy have

been inherently limited in their ability to remedy the security and governance vacuum on land. Although these methods do target some of the immediate *symptoms* of instability in Somalia, they do not target the *land-based catalysts* for pirate activity, such as lawlessness, pervasive insecurity and lack of economic opportunity. In pursuit of a lasting solution to Somali piracy, the international community should increase efforts to build local security sector capacity over the long term, so as to mitigate the extent to which lawlessness ashore can continue to create lawlessness at sea. Such engagement could allow for the emergence of an environment conducive to political, social and economic development.

That said, addressing the weakness of the Somali security sector is not a silver bullet. The current TFG exists in a constant state of peril, exercising little control over the area it purports to govern. Lacking domestic acceptance as a legitimate governing body, it is perpetually preoccupied with staving off defeat by various insurgent groups. In order to simultaneously remain in power and bolster what little credentials it has, the TFG has had to maintain a very delicate balance between accepting external assistance without looking like a tool of Western interests, and generating broad domestic support.

After two decades of civil war and anarchy, Somalia will require a sustained interagency and international commitment to facilitate the creation of functional governing institutions that can support a security sector. Given the threat posed by insurgents on land, the TFG is likely to prioritize land-based security assistance over maritime security sector capacity-building in the immediate future. At any rate, the development of an indigenous police force and military, supported by robust security sector institutions, is a step in the right direction that could enable the country to address the security and governance vacuum that allows pirates and insurgents to thrive.

Until Somalia is able to provide its own



*A Somali warship. Of sorts. Photo: Cpl. Warren Peace/U.S. Army*

security, the gap will gradually have to be filled by regional and international partners. On land, the international community should focus its efforts on providing concrete financial, logistical and political support to strengthen the African Union Mission to Somalia (AMISOM) and any subsequent multinational peacekeeping force, so that they might achieve their strategic, operational and tactical objectives. Flaws notwithstanding, it is crucial that the international community provide a strong, sustained commitment to AMISOM, since its mere existence is at the very least a positive development for African regional security. Stronger international support may also lead African countries that have pledged troops, but not yet sent them, to do so. Ideally, a sufficiently trained and equipped peacekeeping force could make positive contributions towards creating an environment amenable to political, social and economic development in Somalia.

At sea, more emphasis should be placed on building maritime security sector capacity in neighboring littoral countries, such as Kenya, Djibouti, Yemen, Tanzania, the Seychelles, Madagascar and Mauritius. Regrettably, these countries are currently ill-equipped to provide sufficient maritime security for themselves or Somalia. Many have security forces that have traditionally been land-focused, leaving the maritime security sector resource-deficient. Additionally, regional maritime security cooperation has not progressed to the point where it can

counteract individual countries' shortfalls in requisite training and equipment. Capacity-building and the facilitation of regional cooperation should increase the extent to which states' maritime security forces could complement the efforts of multinational naval patrols, creating a secure maritime environment in the Gulf of Aden and Indian Ocean. Additionally, increased regional maritime security sector capacity could help confront other emerging maritime security threats, such as arms trafficking, human trafficking, drug trafficking and illegal fishing — which many argue is the original grievance that drove Somali fishermen to pursue piracy on a much smaller scale in the 1990s.

In spite of the moderate success achieved at sea, many challenges remain in the pursuit of a definitive end to piracy off the coast of Somalia. The predominant counter-piracy methods currently in use are limited because they address the symptoms of the problem alone. But as piracy has both sea and shore components, the international community needs to do a much better job of complementing counter-piracy methods employed at sea with comprehensive and sustained local and regional capacity-building to address the governance and security vacuum on land. While current sea-based methods are necessary to counter piracy, they are altogether insufficient at eliminating the land-based malaise that allows such activity to occur at sea. ■



Fiona Mangan

# And Let Us Not Forget Somaliland

## The Politics of an Unrecognized State



Somaliland: Under a tangled web. Photo: Fiona Mangan

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**P**OLITICAL crisis has plagued the breakaway state of Somaliland over the past 18 months. Failures and delays in the electoral process now threaten to destabilize this peaceful enclave and destroy the democracy it has built over 18 years of independence.

The Republic of Somaliland has repeatedly sought international recognition as an autonomous state in the northernmost tip of Somalia. It seceded from Somalia in 1991 and, independent of international intervention, established a secular, democratic state, which has operated with relative peace until this year, when election delays began to reveal worrying trends.

Somaliland's boundaries follow the old borders of British Somaliland; the main portion of Somalia lay under Italian rule. The two colonial powers ruled with very different styles. Italy exerted considerable control over southern Somalia and restructured the social hierarchy, disrupting the historic balance of clan ties. Meanwhile, British Somaliland was a protectorate and never fully colonized. It was administered with relative indifference and minimal interference in societal structures. These different colonial experiences have had an obvious impact

on region's social cohesion and subsequent political direction.

After decolonization, Somaliland existed as a recognized, independent state for five days before opting to join an ill-formed union with Somalia. Post-independence illusions of a harmonious Somali state faded fast, as the north experienced growing political and economic isolation. When Dictator Siad Barre came to power in 1969, isolation became direct targeting. Barre saw the majority clan in the north, the Issaq, as a threat to his regime. When opposition movements formed he responded by attacking Hargeisa, the north's capital, reducing the city to rubble and "cleansing" it of the Issaq clan. Barre was overthrown in 1991, and while chaos and violence have been a part of life in central and southern Somalia ever since, Somaliland once again developed its own story.

On May 18, 1991, the Republic of Somaliland declared independence. Initial military leadership gave way to successive civilian governments. The road was not always smooth, but the state managed to hold its course through moments of conflict by engaging elders in clan-based reconciliation and using traditional peace-building methods to resolve clashes and

air grievances.

The political system in Somaliland consists of a bicameral parliament, which retains the traditional clan elder system as the upper guurti chamber, a powerful executive branch and a cabinet of ministers. As Somaliland lacks international recognition, it has drawn little outside interest. The political system has developed with little or no support, financial or technical, from the international community. This has had both a positive and negative impact on the system. While development may have been aided by greater financial resources, political encouragement and technical advice in its infancy, many believe that Somaliland benefited from a lack of international interference during this delicate transitional process. Isolation during its inception has served to shelter the system and allowed the development of a unique, culturally-relevant political structure.

Somaliland functions as a de facto state, but it still lacks the international recognition of independence that it desires. Over the years it has acquired most of the common symbols of statehood — a constitution, flag, currency, functioning

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*Business as usual. Photo: Fiona Mangan*

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parliamentary system complete with government ministries, security sector, judiciary and even comprehensive bureaucracy, in the form of license plates and passports.

The democratization process had been progressing steadily until recently. In 2001, the state held district elections, followed by presidential elections in 2003 and the first set of multi-party elections in September 2005. International observers hailed the elections, presenting them as great examples of successful democracy to the Horn of Africa. Over the past 18 months this impressive record has been eroded by the repeated delay of presidential elections. While originally scheduled for March 2008, the latest proposed date of September 27, 2009 has passed and a new date has yet been announced. This has thrown Somaliland into constitutional crisis and engendered considerable public outrage.

The reasons for the electoral delays are numerous. Fault cannot be attributed to one sole actor, but rather to a cast of political antagonists and one central argument. President Dahir Rayale, whose term of office officially expired in May

2008, is a key figure. Rayale has managed to cling to power through unconstitutional extensions of his mandate granted by the guurti, who have, in turn, been the beneficiaries of term extensions from the president.

The National Electoral Commission's (NEC) composition and mismanagement of the elections has also been a central issue. Its appointment was controversially delayed by eight months due bickering between the political parties, guurti and the president over its representative make-up. Since taking office in September 2007, the NEC has displayed a serious lack of experience, raising questions of its ability to organize an election. It has also found itself the subject of widespread allegations of corruption.

The central argument that has dominated the elections crisis is the issue of how to manage voter registration. The three political parties (the ruling UDUB, and the opposing UCID and Kulmiye parties), the NEC, the president and donors have repeatedly clashed over fundamental disagreements regarding the chosen system and its failures.

The voter registration row is an old one that has resurfaced from previous election periods. While the ruling UDUB party sees it as an unnecessary and impracticable step, opposition parties fear that lack of registration exposes the elections to vote rigging on the part of the government. Although a simple, paper-based system was recommended by international stakeholders, the political parties and NEC opted for an extremely ambitious biometric system using fingerprint identification software and photo ID cards.

Problems with the system have been near constant. In the initial stages, issues with the tendering process and questions over local capacity arose. Repeated technical glitches occurred and the system became almost totally reliant on consultants from abroad. As soon as the registration process was underway, news of widespread and systematic fraud by all parties began to raise alarm bells.

In the midst of this, terrorist attacks struck Hargeisa, on October 29, 2008, killing at least 30 people. Suicide bombers targeted the president's office, a United



Tara Lee

# Somalia's Forgotten Graves

## The Mass Graves in Hargeisa Must be Preserved



Photo: Somaliland Info

**N**EW S reports called the April 2007 violence in Mogadishu the worst in Somalia's history. Evidence in Somalia suggests this is not so. Mogadishu's violence — including the mass deaths of civilians and some heavy artillery shelling into residential areas — merely echoes what most have forgotten happened in the northern Somali city of Hargeisa in 1988.

For a lot of Americans, awareness of Somalia and its violent history begins with “Black Hawk Down” and the humanitarian crisis that followed the fall of the Siad Barre regime in the early 1990s. But preceding that period of lawlessness, the Barre regime — Somalia's last recognized government — subjected its citizens in the north to an internationally-recognized, well-documented pattern of human rights abuses, arbitrary detentions and extrajudicial killings. Those abuses reached a violent peak in June 1988, when the civilian population of Hargeisa was decimated by a month of indiscriminate aerial bombardment and artillery shelling. Neighborhoods were leveled, schools and hospitals destroyed. Hundreds, maybe thousands, were killed in the bombing, and hundreds of thousands fled, creating a refugee crisis in Ethiopia. During that same month, hundreds of civilians in

Hargeisa were rounded up and shot, their bodies dumped into mass graves around the city. Human bones from those gravesites are now literally washing away with each seasonal rain, due to a lack of international interest or local funding to build a protective wall.

I traveled to Somalia as *pro bono* co-counsel with the Center for Justice and Accountability in 2007, to collect evidence of the war crimes and crimes against humanity committed in and around Hargeisa in the 1980s. Planning to visit and document the mass gravesites, I expected to see mounds of dirt, solemnly marked and reverently kept. But at each site I visited in Hargeisa, the only markers were the memories of those who had miraculously survived and the briar bushes locals dragged over to cover the mounds. Every few days, they repositioned the briars to help protect the sites from animals that might drag away the human remains.

My last stop on my final day in Somalia was the Malko Dur-Duro mass gravesite, located near the former Barre Army regional headquarters and where Somaliland's military now keeps its headquarters. Previously, locals had described to me how the rains washed away layers of dirt

there each year, exposing and sweeping away bones. I had previously interviewed survivors of the mass executions, men who had somehow avoided death when they were lined up with their friends and brothers and shot in tight groups. Despite these descriptions, I was unprepared for what I saw. Exposed human bones littered the ground at Malko Dur-Duro. Spring rains were especially destructive, deeply churning the soil. And without any barriers, walls or markers, people and vehicles often crossed the area. Tire tracks had freshly disturbed the mounds of dirt on the day I visited.

All around me, white bone fragments jutted out of the dusty earth, through the tire tracks and in the gullies left by rainwater. Many of the bones lay loose and apart, unrecognizable at first as human remains. In some places there were so many, and I was so unsure of what I was seeing, that it was hard not to step on the bones before I realized what they were. And then, from 20 feet away, one piece was unmistakable. A human jawbone lay half-covered in the dirt, many of its teeth still intact.

I visited the Malko Dur-Duro site mid-morning on Wednesday, April 25, 2007.

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In Mogadishu that day, forces lobbed artillery shells into residential neighborhoods, killing hundreds more civilians and striking the SOS Hospital. By Friday of that week the civilian death toll from the shelling had risen to over 1,000. By all accounts, the violence of those weeks, and since, has driven hundreds of thousands from their homes, creating a new Somali refugee crisis to mirror the one in 1988. In Hargeisa that week, while history repeated itself to the south, I steadied my hand and took a picture of the jawbone. I walked a few more feet and saw two femurs, a collarbone fragment and a spine. Those bones were all gone, washed away, by the next rain.



The lucky ones. Photo: Ian Steele/UNOPS

preservation efforts are limited to moving briar bushes and taking pictures when they can. They hope that soon, before too many bones are lost, an objective international committee will come and properly exhume and document these sites. Recognizing that their own count will be subject to accusations of bias, they wait for some neutral agency to come. They hope only for an accounting before the evidence is gone and everyone forgets.

Meanwhile, it seems that many in the international community have already forgotten what happened in 1988. While they wait in the north of Somalia, hoping for help, just to be able to build a wall and count the bones, the rains come, and the violent cycle repeats itself in the south. ■

*If your company is interested in donating time, money or materials to the process of building a protective wall at Malko Dur-Duro, please contact the author at tara.lee@dlapiper.com for referrals to the preservation committee in Hargeisa.*

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A committee appointed by the self-declared independent Republic of Somaliland works in Hargeisa to preserve the mass gravesites. The U.N. high commissioner for Human Rights has recommended that they try to preserve the sites. But, with no funding their

## And Let Us Not Forget Somaliland

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Nations building and the Ethiopian consulate, heightening fears and suspending the electoral process for several weeks.

Elections were further delayed as attempts were made to clean-up the voter register. Trust all but disintegrated between the NEC, political parties and contractors. Concerned donors threatened to withdraw funding, and the NEC leveled accusations of contractor-negligence. The climax of the crisis occurred when President Rayale announced that the voter list would be discarded and elections would proceed on September 27, 2009.

Political and civil turmoil spread throughout Somaliland in weeks that followed. The opposition mounted protests in the streets and parliamentary chambers. Stories of mobilizing clan militias raised fears that Somaliland's much-praised stability was edging toward collapse.

However, Somaliland once again averted a return to civil conflict by drawing on its culture of dialogue and reconciliation. Two days before the proposed election date, a Memorandum of Understanding was agreed upon, setting out a new direction for elections and somewhat calming the frenzied political scene. Under its terms, progress has been made. In recent months changes to the NEC leadership and composition have taken place, efforts are still being made to clean up the voter register and news of training and re-engagement with international donors is emerging.

It is yet to be seen whether Somaliland will steer itself out of its current crisis and fully commit to the democratic process it began. While the state's progress strongly contrasts with the insecurity of life in central and southern Somalia, there is a risk that failures are being tolerated because the benefits of Somaliland's peaceful state far outweigh the risk of

slippage into violence and political vacuum.

There are, however, clear positives to be gleaned from the tolerance displayed. In spite of their many disagreements, the characters in Somaliland's political scene appear to have more of a stake in the country's survival than in their own political gains. The dream of an internationally recognized Republic of Somaliland remains the common goal of all parties and an influential factor in the politics of the state.

The turmoil of the past 18 months has risked the peace and progress that Somaliland has worked hard to attain. All stakeholders must now work together to maintain stability through dialogue and continue to work toward resolution of the electoral crisis. It is only through achieving such positives that Somaliland will reach the road to recovery and even recognition. ■



# Peace Building Efforts by Somali Women

## The Fall of the Somali State Opens Doors for Somali Women



A colorful group. Photo: Milton Grant/U.N.

SINCE the collapse of the state in 1991, the people of Somalia have been plagued by protracted political insecurity and brutal militarized violence, survived without social services or state protection. The unresolved, militarized conflict and following political disintegration have produced both positive and negative gendered outcomes in Somalia, manifesting in drastic changes in gender roles. These shifts have enabled Somali women to participate in activities — such as conflict resolution — that were previously considered to be exclusively of the male domain.

Somalia's conflict has disproportionately affected the country's women and girls, due to their gender, clan and socio-economic status. The collapse of the state and its institutions complicated access to opportunities, such as education, healthcare services and employment. Furthermore, the lack of a central decision-making authority has affected people's well-being, especially in terms of gender equality, in the short and long term. Yet, although the conflict has brought death, displacement, anarchy and gender-based violence, Somalia's instability has also provided a space for women to challenge the previously male-dominated conflict resolution mechanisms.

When the male clan elders first lost effective control over the heavily armed, young militia men, Somali women saw it as an opportunity to make their intervention in the peace-building arena. As mothers, grandmothers, aunts, spouses and sisters — and as those more often victimized by militarized violence — Somali women understood that in order to minimize the atrocities committed by the armed, young men in their communities, they needed to take action to curb the violence.

The large scale of military violence, compounded with the weakening roles of traditional male leaders, gave Somali women the space to participate in the state and peace-building efforts. They found room to maneuver and exercise their leadership, and to carry out peace-building activities autonomously where hitherto they could not. One woman I interviewed, Saada, illuminates it thusly: “The violence was affecting us, our families and everyone in our community. It is because of the scope and seriousness of the conflict that women in my community recognized that they could not afford doing nothing, but take actions to build peace.” Catalyzed by conflict, Somali women mobilized, responding to the violence affecting their people and

community, and at the same time fighting for gender equality.

The social and political disintegration and upheaval of their country enabled Somali women to recognize their ability and right to solve conflicts and build peace in their communities. Filsan, a peace activist in Puntland states that:

“We are people who are also affected by the violence in our community. It is our right and entitlement to have a space to build and maintain peace for our people and community. We have been building peace in our homes, neighborhood and community on a daily-basis and will continue to do so.”

Such cognizance encouraged Somali women to be at the frontline of peace-building. By studying the outcomes of the conflict, Somali women understood that their marginalization in the formal politics of conflict resolution was undemocratic. To ameliorate this, the women peace activists I interviewed in Puntland and Somaliland came to the conclusion that it was necessary for them to become visible actors of peace in their own communities. To accept such marginalization was not a viable option. One activist in Somaliland said, “We refused to listen to individuals in our community who were opposed to

our involvement in peace-building. We said to ourselves, if we submit to social pressure then we will be inevitably hampered from making our own contributions to peace, which will then affect us as women during post-conflict stages. We simply refused to surrender to social pressure.”

Somali women’s peace-building efforts are a part of the larger grassroots peace-building initiatives evolving in Somalia: homegrown solutions that are cheaper, more effective and more sustainable than international options; and that have the potential to resolve and prevent conflict in individual communities. Somali women’s participation in these projects is essential because they can shape, control and benefit from the outcomes of durable peace, allowing them opportunity to demand gender equality in the post-conflict recovery stage. Since 1991, Somali women have responded creatively to the continued chaos and hostility in their country through programs such as reciting peace poetry to warring groups, serving as peace envoys in times of conflict and providing emotional and financial support to victims of violence.

Due to their multiple relationships through birth, marriage and friendships, and their lack of perceived threat — ironically, courtesy of their gender — Somali women are able to easily interact, share information and mobilize diverse groups across clans to participate in peace rallies. Through these rallies, which have taken place in major cities such as Bosaso and Galkacyo in Puntland and Hargeisa in Somaliland, women are able to appeal to warring groups to end vengeance killings and demand their active participation in the conflict resolution process. Through their poetry and speeches, women demonstrate their support for, and commitment to, peace. Such actions ultimately undermined militia groups’ attack plans, thus ignore preventing further conflict. Women also collect resources to assist conflict-affected families and groups. Through financial compensation, they are able to avert resource- or revenge-motivated blood-



*They shouldn't have to suffer. Photo: E. Hockstein/UNHCR*

shed in their community. Finally, these activists also mobilize other women and youth whose clans are involved in incidents of violence, urging them to pressure their warring leaders to end hostilities and reach immediate peace settlements.

However, in their efforts to contribute to peace-building and recovery, Somali women face internal and external challenges. Internally, traditional conflict management in Somalia is neither democratic, nor does it promote gender equality when addressing communal conflicts at the village and national levels. Somalia is a patriarchal society that does not accept women as capable of exercising leadership in the conflict resolution arena. Even the temporary space that Somali women have found may eventually be eroded by the on-going conflict, and male chauvinism of warring and religious groups.

Women activists are also adversely affected by the peace-building efforts supported by international organizations. Peace conferences held outside Somalia do not take into account the views of the women on the ground; and the “top-down” peace-building models used emphasize power-sharing, instead of

addressing the conflict’s root causes. Reconciliation conferences have privileged warlords and the few Somali political elites, while bypassing civil society groups, including those led by women, youth and religious groups. It is paramount that the international community empowers these groups, who have just as large a stake in peace and who possess local knowledge, experiences and skills pertinent to establishing stability in Somalia.

Despite these challenges, Somali women have proven their conflict resolution prowess by fostering peaceful communities that promote intra-clan mixing and interdependence — which will be crucial in a functioning Somali society. Their participation not only complements the top-down model of peace-building, but it also offers the opportunity to achieve gender equality in post-conflict stages. Building lasting peace in Somalia requires more comprehensive and all inclusive approaches that address the root causes of the conflict. It is crucial that women receive recognition for their roles in peace-building and are properly supported in future endeavors because their efforts hold enormous potential in transforming a war ravaged country into a peaceful nation. ■



# Capitalizing on Africa's Potential

## An Interview with Ambassador John Simon



Ambassador John Simon. Photo: Supplied

**J**OHN Simon served as U.S. ambassador to the African Union (2008-2009) and executive vice president of the U.S. Overseas Private Investment Corporation (2006-2008). He previously served in the White House as special assistant to the president and senior director for Relief, Stabilization and Development in the National Security Council (2003-2006) and as deputy assistant administrator for Policy and Program Coordination at USAID (2002-2003). Ambassador Simon is currently a Visiting Fellow at the Center for Global Development in Washington, D.C.

**JIPO:** What challenges does the African Union (A.U.) currently face and how is it working to overcome some of its most intractable problems?

**Amb Simon:** The greatest challenge the A.U. faces is that, unlike any of the other major regional organizations, the A.U. has very poor countries, with the vast majority of its members either lower-middle or lower income. Therefore, it relies heavily on the donor community for resources. The A.U. constantly has to be in back-and-forth dialogue with donors to get the resources it needs to accomplish its goals.

While the A.U. has excellent leadership at the top, it has very limited support capacity in terms of quantity — not in terms of talent. The A.U. Commission has 700 positions identified and only half of those are filled. Compare that to something like 30,000 positions in European Union Commission. So the A.U. has ... some of the most intractable conflicts in the world in its region and the fewest resources — both in terms of financial and human — to deal with them.

**JIPO:** Do you agree with those who believe that U.S. diplomacy and foreign aid are being militarized, and what are the implications of this?

**Amb Simon:** No, in fact I think the opposite is happening. Africa has gone from a situation where it had 15 major conflicts, ten or so years ago, to a situation now, with two major conflicts and a few simmering minor conflicts. The aid and the diplomatic efforts that we have engaged in on the continent have aimed toward increasing the peace, welfare and prosperity of the African people, and I would argue that since security is a fundamental component of increasing peace and welfare, U.S. Africa Command (AFRICOM) does just that. AFRICOM acts in a supportive role for diplomacy and development in Africa by helping countries, regional organizations and the A.U. increase their capacity to keep the peace. In fact, through the efforts of AFRICOM and its predecessors you see many more African countries engaged in peacekeeping on the continent.

**JIPO:** What lessons may be learnt from efforts to develop and stabilize parts of the African continent?

**Amb Simon:** The most important lesson — and unfortunately one we have not learnt well enough — is that peacekeeping requires a significant investment. In Liberia, where there were 17,000 peacekeepers, it created a real opportunity for peace in that country. I think the results are clear. You have a government that is legitimate, democratically elected, supporting a robust reconstruction program and where the concerns of Liberia going back to war — though you cannot discount them altogether — are really not a present-day fear.

Meanwhile, the Democratic Republic of Congo (DRC) is 21 times the size of Liberia in terms of land and about 20 times the size in terms of population; they have a peacekeeping contingent that is about the same size as Liberia's. Obviously, they have had less peace and more conflict in the various regions of that



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country. To expect a peacekeeping contingent that is the same size as the one in Liberia to keep the peace in a country the size of the DRC is just wishful thinking.

Look at the situation in Somalia where the A.U. mandate was for 8,000 troops. The United Nations (U.N.) experts say that the more appropriate number is 23,000 — and still there are about 5,000. And so lesson number one is: you must have a robust peacekeeping contingent if you are going to have enough force to maintain stability.

The second lesson is that reconstruction has to include a strong private sector component. If you come in with large reconstruction budgets, but do it purely through donor agencies, the government and state-to-state policies, you will so distort the economy that the type of balanced growth necessary to create jobs — that is ultimately the source of long-term stability — is just not going to be there. You need to bring in a strong private sector component.

And the other important piece is that you need to build up the capacity of governing institutions, which is often an element that is very lacking. In many situations, post-conflict governments are trying to do the right thing, but they just do not have the budget, skills or even things as simple as the computer systems or Internet connectivity. Again, when you look at successful peacekeeping efforts, you see that in those areas, those items have been attended to.

*JIPO: In what ways can the private sector improve its support role in conflict and post-conflict environments?*

**Amb Simon:** The private sector has been a supplier of services and goods to public reconstruction agencies. I think more important than just playing that supply role is for the private sector to be there as an investor — to be putting capital into these situations to build businesses and to build up the small businessperson class that really has a stake in ongoing stability.



*The U.N. and African Union: augmenting one another. Photo: Fred Noy/U.N.*

And obviously you may ask what private sector person is going to invest in a situation that is coming out of conflict? I think there are two types. The first are those seeking extraordinary returns, because if you look at the amount of growth in post-conflict countries that do not return to conflict, it is extraordinarily high. Then there are private sector players that have a real interest in not just making a profit, but also doing good. Mobilizing those types of players to take an active role in these difficult post-conflict situations where they can invest to get a social return as well as a financial return has to be a fundamental component of post-conflict reconstruction strategy.

As for what contractors can do, as opposed to investors, I think it is very particular to the situation. One challenge occurs when a fair bit of distance exists between the customer and the chain of suppliers because of multiple levels of subcontracts. Anything that can be done to shorten that chain to make sure that the people on the ground who are delivering the services are very cognizant of what they are being asked to do by those paying the bills, I think, is critical. The chain of communication is also difficult.

*JIPO: Many view the problem of piracy off the coast of Somalia and other African countries as a symptom, not the cause of insecurity and instability. If you agree, what then do you*

*recommend as the cure?*

**Amb Simon:** I absolutely do agree and I think that the cure is to shore up the Djibouti Peace Process to try and create the semblance of stability in Somalia. That process has probably given Somalia the best chance in a generation at achieving some sort of stability. It is a long way from that, but there is a lot more the international community can do to support that process, including bringing the A.U. Mission in Somalia (AMISOM) up to full-strength, augmenting it with a larger U.N. force, and giving the transitional federal government of Sheikh Sharif Sheikh Ahmed more institutional support for capacity building than already exists. Ideally, once you create an environment that is significantly more secure than it is now, reconstruction help and economic help can begin to create a viable economy that will suck young people out of the conflict into productive employment and the support of their country.

*JIPO: You have called for Africa to be a “no-conflict zone by 2020.” What practical steps must be taken for this to happen?*

**Amb Simon:** I do not think it is unrealistic to presume that the steps that were taken to move from 15 major conflicts to two and a few minor conflicts can move us to none. I think a critical



# Accountability: The Way Ahead

## Policy Developments to Come in 2010



Secure and transparent. Photo: Tech. Sgt. Justin D. Pyle/U.S.A.F.

**N**ISOUR Square, human trafficking and degrading conduct: such events, although rare, undermine the ability of all private security companies (PSCs) to protect their clients in insecure environments. These clients include local government officials, agencies of governments, commercial corporations, humanitarian agencies and private individuals. Most PSCs operate in a way that supports the restoration of the rule of law and advocates accountability. Some do not. Many clients add to the problem by asking little of the companies they hire other than the lowest possible price. The results are practices that violate human rights, erode the effectiveness of all other companies operating in the region and increase insecurity for PSC clients and the general community. Governments, the private security industry and civil society can, and are working together to remedy this state of affairs.

The first step towards international accountability came in the fall of 2008, when 17 states, together with representatives from many PSCs and NGOs, endorsed the Montreux Document. Since then, another 17 states have become party to the recommendations in this document. Although an important achieve-

ment, by necessity it was extremely narrow in scope, being limited to states and to conditions of armed conflict; crucially, it did not include any process for implementing its provisions. However, even as preparations were made for endorsement, some participants began to plan beyond Montreux. Under this new Swiss Initiative, states, non-state clients, PSCs and civil society institutions are working together to craft binding standards of conduct for the entire industry regardless of client, region or level of conflict. This set of standards is intended to guide company operations and to serve as a tool for clients to use when selecting security solutions or drafting policy and legislation. As of this writing, an initial draft of this code — or industry standard — is being reviewed and will be developed through a series of stakeholder workshops, with the intent of industry endorsement in spring of 2010.

To be binding — to be effective and make a difference — a code alone is not enough. There needs to be an independent enforcement mechanism that supplements national legislation. This enforcement includes certification that a company has achieved the standards described in the code; surveillance to ensure that the company operates in

accordance with the code; and a method with which to respond to reports of code violations and take appropriate action. Enforcement should be a cooperative effort among the PSC industry, governments and other institutions working to promote civil society. This cooperative effort can take the form of a private non-profit organization that works under mandate of national legislation, encourages compliance and punishes violation.

This independent organization will certify that companies are in compliance with the code and validate the companies that have endorsed another code: “Practice what you preach.” The results of certification, surveillance and other reports should be publicly accessible over the internet, in published reports and through a publicly accessible database. Governance of the organization should include representatives of the PSC industry itself, participating governments in the Montreux Document and other stakeholders in PSC operations. To maintain its independence and impartiality, this organization should not be dependent on resources from the PSC industry. Although the direct costs of certification and monitoring should come from the industry, the fixed operating costs of the organization should be paid

by participating governments and other stakeholders in PSC accountability. In a recent report to the European Commission on PSC accountability, the Venice Commission noted that a private oversight body will also need some legal protections. Safeguards would include protection from PSCs who may challenge non-certification or other adverse actions by the certification body, and also protection from civil suits originated by private individuals and public interest groups who may disagree with certification body practices.

Certification must include standardized training in international humanitarian law, human rights law, the use of force and other subjects described in the Montreux

tion about the companies themselves, the services they offer, past history, certification or compliance with the code and complaint history. The public, either accessing the database directly or working with the assistance of civil society organizations, could file reports of company misconduct using this database. Database managers could then work to resolve complaints or, in the event of credible allegations of criminal misconduct, forward the information to the appropriate legal authorities. The public could also submit commendations for companies as well.

Certification and oversight will not be effective unless clients insist on it. In its recent consultation paper the United Kingdom recommended third party

clients, government clients and others will work together to devise a standard that guides the proper behavior of armed private security; is a model for clients to use in drafting contracts and for states to use in national legislation; and holds PSCs effectively accountable to each of these. An outline for the certification and oversight organization is complete and will be developed during these consultations. The database is operating in beta-test and donors are being sought to fund the development and evaluation of standardized training programs. Funding is the key. As this initiative serves the international interest of both the public and the private sector, multiple sources of funding are both appropriate and necessary. Governments can and should provide much of the funding for the



*Incidents in Baghdad have led to many of the proposals of Montreux. Photo: NASA*

Document or related international standards. The independent oversight organization will develop accreditation standards by which other institutes and corporations will provide training in accordance with standardized tasks, conditions and outcomes. Further, third party certification of this training should be made a condition for overall certification of the company.

The publicly accessible database previously described would provide informa-

certification of companies as a prerequisite for award of security contracts. The conference report to the U.S. National Defense Act of 2010 made a similar recommendation. It is likely that the Defense Federal Acquisition Regulations will require certification of PSCs, similar to existing requirements for certification of various International Organization for Standardization (ISO) standards. Such national regulations by the United Kingdom and the United States would be an excellent start. One of the functions of an independent oversight organization must be to work with governments to encourage similar supporting legislation in other countries and to encourage private sector clients to insist on certification.

Currently, a draft of the standard of conduct is being reviewed in preparation for broader consultation. Through a series of workshops, legal experts, insurers, civil society organizations, private sector

overhead. However, government funding processes can be slow and cumbersome. Private sector funding has a history of being more responsive to short horizon needs. What is needed, therefore, is an effective strategy for accessing both.

This new Swiss Initiative does not replace national legislation to regulate the use of armed force in protecting its citizens. Rather, its objectives include strengthening national legislation and the effective application of relevant laws. The intent of this effort is to leverage the flexibility of the private sector and concerned organizations to engage directly with governments, industry and the public to meet a common good. In this case, that good is working together to ensure that the use of armed private security providers accomplishes its legitimate purposes without adding to regional instability. ■

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# Bulletproof Standards

## IPOA's New Initiative on Armored Vehicle Standards



Armored vehicle standards: positively earth-shattering. Photo: Doug Brooks

**T**HE armored vehicle business is booming. Demand is increasing for vehicles ranging from converted SUVs to mine-protected fighting vehicles, and everything in between. Armored vehicles have become standard equipment for companies that operate in hostile environments and conflict zones around the world. The importance of these machines is further amplified when civilian personnel are involved.

A specialized field within the armored vehicle industry is the adaptation of civilian road vehicles, also known as converted civilian vehicles (CCVs). These vehicles are meant to protect vulnerable individuals during transport in conflict and post-conflict zones, while maintaining the normal appearance of the unmodified vehicle. There has been a significant increase in the use of this type of vehicle, in part as a result of a growing need to ensure the security of military, government, private security and civilian actors who are operating in hostile environments. This need is especially essential in regions such as Iraq and Afghanistan, where individuals are subject to a constant threat of random attack from insurgent groups. Due to the increase in demand a broader range of vehicle designs now

exists; and for this reason it has become imperative to establish a single industry configuration standard for the development and manufacturing of CCVs.

CCVs are an essential operational tool for private security companies. As well as offering protection to the vehicle's operators and passengers, they maintain low visibility. The CCV is designed to maintain its original outward appearance and so disguises its protective capabilities, permitting private security operators to blend into the local environment. This allows companies to transfer their clients safely through hostile areas without attracting unwanted and/or dangerous attention.

On a less positive note, the increase in CCV demand has brought to light a failing within the industry. In order to maintain their competitive edge, CCV manufacturers are encouraged to produce a lower quality vehicle, a tendency that is facilitated by a complete lack of suitable CCV production standards. The absence of industry standards has left manufacturers with no benchmark with which to work, instead enabling them to utilize inadequate production methods. This option for variation can produce vehicles that may or may not have integrated all

the protection components or systems necessary to act as properly functioning and safe CCVs; and the consequences of these shortcuts can be fatal. This is not to say that all CCV manufacturers are providing inferior products, but rather to underscore that no standard currently exists for this market segment. Without a qualitative benchmark, pricing alone is an inadequate reflection of design caliber. This problem typically affects the CCV segment of the industry, as opposed to the higher priced military-style vehicles.

Price is, of course, a high priority for both the seller and the buyer of a CCV. That is why it is so important for both parties to be aware that lower-priced vehicles may not be up to safety standard. Standardized manufacturing guidance would mean that all manufacturers would have to renovate CCVs to an identical standard. Obviously, this is necessary because the safety of the individuals riding in the vehicles depends upon the proper integration of design components.

Those who rely on the CCV for daily operational support and protection should be confident that the vehicle in which they have placed their lives is well built. Although most manufacturers can issue

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this assurance, this is not always the case. In addition to manufacturers who take shortcuts to lower production prices, other manufacturers simply neglect important design considerations, either through lack of experience, lack of knowledge or both.

Currently, buyers generally specify their vehicle choice and manufacturers make them according to material standards. These standards only apply strictly to the materials — not to overall vehicle configuration. Vast amounts of buyers remain unaware of the difference. For those who are familiar with the industry, the term “B6” is a common material standard specified for vehicles purchased for use in the regions of Iraq and Afghanistan. What is not commonly understood is that the B6 standard is designed for human body armor — not for vehicles. This standard tests only a single piece of material that is required to defeat a particular sized bullet travelling at

a certain speed. Most importantly, this standard fails to mention how these materials must be integrated into the vehicle design.

Experience shows that there is a correct way to configure these materials to guarantee that the vehicle protects its passengers. The B6 material standard does not address configuration. As a result, each manufacturer decides how to assemble its own vehicles. The lack of standardization means that there is a distinct lack of uniformity between different manufacturers; what a seller purchases from one manufacturer under the B6 guise could be markedly different from the product of another. This has led to the wide variation in CCV design and price in today’s market.

IPOA and its member companies have recognized the considerable deficiencies in the armored vehicle manufacturing industry. In response to this, the association has created the Armored Vehicles

Working Group. This group consists of representatives from a host of member companies who will work to develop an industry standard for the manufacturing of CCV armored vehicles. The working group will endeavor to create specific industry standards relating to the configuration of materials, safety requirements and the functional qualifications necessary to ensure that parts can perform under stress, along with additional consideration to quality control and certification.

It is the hope that these standards will be implemented by sellers; and will equip both buyers and end-users with the knowledge and confidence to purchase armored vehicles for use in hostile environments. Further, the standards will raise awareness of the current deficiencies within the industry, which will ultimately inspire and enable both manufacturers and buyers to ensure the best possible protection for their employees and clients in the field. ■



*A good argument for good armorning. Photo: Doug Brooks*



Ian M. Ralby

# Regulating Private Security in Sierra Leone

## PSCs in Sierra Leone Face Extensive Labor Regulation Issues



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All in need of a bit of protection. Photo: Eric Kanalstein/U.N.

OVER half of the private security companies (PSCs) in Sierra Leone are operating without licenses and are therefore outside the law. Significant problems, particularly labor issues, plague the entire industry and impinge on the overall security of the post-conflict state. While there are some exceptions to the wide-spread problems, the principle cause for optimism comes from Sierra Leone's active participation in the Montreux Process, combined with redoubled efforts on the part of the Office of National Security (ONS) — the organ of the Sierra Leone government that oversees PSCs — to close down illegal PSCs and more stringently regulate legal ones.

Since 2002, the National Security and Central Intelligence Act has required all private security companies in Sierra Leone to register with ONS. ONS, in turn, reviews the applications and issues licenses to the PSCs it deems competent to operate security businesses. According to Francis Keili of ONS, who is responsible for the oversight of the private security sector, there were 25 to 30 licensed PSCs in Sierra Leone in November 2009. Estimates consistently suggest, however, that there were between 50 and 60 PSCs in operation.

It only takes a short drive through virtually any part of Freetown to recognize that the private security industry is booming in this West African country. Almost every major business and upscale residence is protected by private security. The expansion both in the size and number of PSCs operating, however, has brought considerable regulatory challenges. While the 2002 regulation does dictate that PSCs be regulated by ONS, it does not provide much specific guidance. That said, it does establish that PSCs must be licensed in order to operate. In December 2005, Mr. Keili met with the relevant stakeholders to assess the status of the industry. In the course of this three-day process, he discovered that fewer than ten PSCs were legally licensed, but that close to 50 were in operation.

Based on the feedback from the consultative process, the Standard Operating Manual for Private Security Companies in Sierra Leone (SOP) took effect in January 2006, setting forth numerous requirements for obtaining a license from ONS and establishing what standards must be maintained in the operation of private security businesses. The SOP provides the legal standards by which licensed PSCs must abide, covering everything from minimum wages and gender discrimina-

tion, to uniforms and sick leave.

While much of the SOP centers on working conditions, there are currently at least 11 major issues surrounding the labor standards within the security sector that negatively impact overall security in Sierra Leone:

- The minimum wages set in 2006 are not adequate. A senior security guard only makes 150,000 Leones a month under that standard (approx. \$37) and a junior security guard makes a mere 90,000 Leones a month (approx. \$22.50). Even if a junior guard receives the full amount, he or she still makes less than \$1 per day — not a sufficient wage in Sierra Leone.
- Many of the security companies do not pay their employees on time. Some are in arrears as long as four months.
- When the guards are finally paid, they are sometimes underpaid.
- Increasingly, guards are being asked to work 12 to 14 hours a day, six days a week, and occasionally work 24 hour shifts. Increased working hours, however, do not mean increased pay.
- Guards are supposed to be paid various allowances — transport, housing, medical, etc. Many guards claim that

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they never receive those allowances.

- A number of companies do not have adequate equipment or vehicles, so guards are sometimes required to walk to their job site, or from one site to another.
- The SOP requires training in “International Humanitarian Law (IHL), human and civil rights, [and] gender-based violence (GBV),” but there are no consistent training standards in place, so many companies do not actually educate their guards on any of these matters (SOP 5.0).
- Complaints either within the company or to the Ministry of Labor often result in the complaining employee’s termination. Terminated employees are supposed to get one month’s salary in lieu of notice, but they often do not receive such pay.
- Complaints to the Ministry of Labor often do not result in any action to resolve the disputed issue.
- At some companies, the cost of the guard’s uniform is deducted at the beginning of their employment, and when terminated, they are required to relinquish it, thereby forcing guards to purchase something they are not allowed to own.
- There is no database for security guards or PSCs, so there is no place to record or investigate problems either with the companies or with the individual guards themselves.

Given the issues surrounding the labor standards at PSCs, it is not surprising that theft by security guards has been a rising problem. If a worker has not been paid in four months and thus cannot feed himself, much less a family, it makes sense that he might steal from the home or business he is guarding in order to survive. Though seemingly mundane, labor issues are some of the most significant legal and practical challenges currently plaguing the private security industry in Sierra Leone.

Another controversy surrounding the regulation of PSCs pertains to the use of arms. Following a 1998 U.N. Security Council Resolution establishing an arms



*Private security may not be quite as colorful as their government counterparts. Photo: U.K. Government*

embargo, only two entities in Sierra Leone are currently authorized under law to bear arms: the Republic of Sierra Leone Armed Forces (RSLAF) and the Operational Support Division (OSD) of the Sierra Leone Police (SLP). Armed robbery is on the rise, but there is currently no way to obtain an arms permit without special permission from the government. No PSC is currently legally authorized to possess or carry arms. Private individuals and companies, however, can apply to the SLP, requesting protection by the OSD. If the application is approved, the OSD is then deployed to provide armed guards to the business or residence. It is not uncommon, therefore, for the OSD and PSCs to work in conjunction with one another to protect the same property. Currently, there are no regulations or operating procedures governing this interaction. Though the policy would no doubt be met with a good deal of opposition, Sierra Leone may reinstitute laws allowing individuals and companies to obtain arms permits in the near future.

Sierra Leone was an active participant, along with 16 other states, in the Swiss Initiative leading to the 2008 Montreux Document. Mr. Keili is now examining the difficulties of incorporating the applicable international laws and the

agreed upon best practices into the policies and laws of Sierra Leone. “My desire is to develop PSCs to an international standard,” he says. Mr. Keili, however, faces considerable challenges in accomplishing this goal. In addition to needing legal reform, the private security industry in Sierra Leone requires a renewed effort to enforce the existing laws. It is difficult to imagine the international legal standards having much effect in Sierra Leone when half the private security industry remains completely outside the domestic legal standards.

Despite this somewhat lengthy catalogue of problems, there does seem to be some cause for optimism. New legislation regarding the private security sector will take effect in early 2010. In addition to clearer, more complete regulation of the industry, Mr. Keili intends a more complete enforcement of the laws. PSCs operating without a license will be shut down. Minimum wages will be raised considerably. Concerted efforts will be made to raise training standards across the industry. One can only hope that a reassessment of the private security sector in a year’s time will reveal that the new laws and policies have improved the standard of the industry. ■



M. Ashraf Haidari

# Afghanistan Democracy in Context

## Before Dismissing the August 20 Elections, Remember Where They Took Place



*Talk to the hand. Photo: Staff Sgt. Christopher Allison*

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**D**AILY news reports — which inevitably shape international public opinion about Afghanistan's recent elections — continue to focus on voting irregularities without examining the environment in which these irregularities actually took place. In an objective analysis, however, it must be remembered that the Afghan elections took place in neither Switzerland nor Florida. Rather, August 20th in Afghanistan was another day of intense violence, including the killing, maiming, kidnapping and intimidation of innocent civilians in an already deteriorating security situation, particularly in those areas where voting irregularities were reported.

Security has been declining in Afghanistan since 2004, when the first presidential elections were conducted in the country. But because the last U.S. administration took its eyes off of Afghanistan as early as 2002 to instead focus on the Iraq war — the “war of choice” over the “war of necessity” in Afghanistan — the Taliban and al-Qaeda effectively began to regroup in Pakistan, from where they have now rapidly expanded their terrorist operations across the border into Afghanistan.

Thus, in the years since 2002 the Taliban insurgency has gained momentum in their

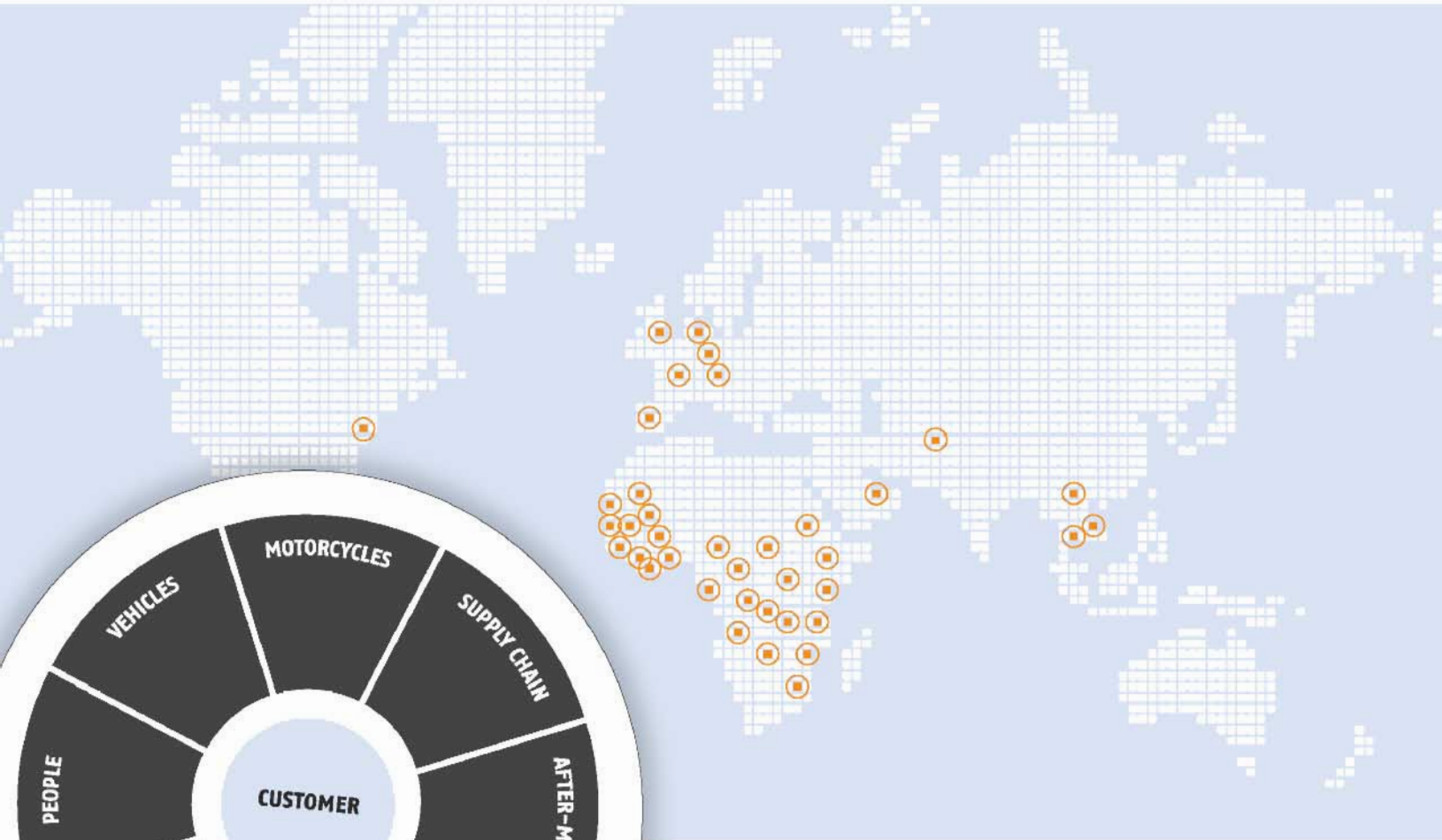
attempts to fill the security and governance gaps in areas of Afghanistan where the government is either too weak or entirely absent. This situation has yet to change because, despite the international community's help, Afghanistan and its partners' attempt to create permanent state institutions has failed. Despite adopting the Bonn Agreement in the wake of the fall of the Taliban in 2001, they have yet to implement a well-coordinated and sufficiently-resourced strategy to build and enable the post-Taliban Afghan state to govern and defend the country on its own.

Therefore, in the months, weeks and days leading up to the elections in August, a fully resurgent Taliban and al-Qaeda terrorist alliance had been trying hard to score a strategic victory by preventing the elections from taking place at all. And that is why for the first time in eight years, the commander of the International Security Assistance Force (ISAF), General Stanley A. McChrystal, highlighted in a comprehensive assessment of what is most urgently needed to rescue Afghanistan and to disrupt, dismantle and defeat the Taliban and al-Qaeda in the region.

But in spite of the Taliban's hard efforts to derail the election process in Afghani-

stan, the presidential and provincial candidates campaigned hard in the pre-election period. Some 30 presidential candidates, along with some 82 vice presidential candidates, competed in the election; and we should not, of course, forget about the 3,195 provincial council candidates who ran for 420 seats across the country. Like the 2004 and 2005 elections, women actively participated in the election process this year; there were two female presidential candidates and seven vice presidential candidates running with their male counterparts. Also, the number of women challenging provincial council seats increased by 20 percent, when compared to the 2004 and 2005 elections.

More importantly, Afghan presidential and provincial candidates reached beyond their ethnic bases. Candidates with different ethno-sectarian backgrounds focused on issue-based rather than ethnic- or personality-based platforms. And for the first time in our history, the leading candidates took part in a series of Western-style presidential debates to discuss their visions of “change” or “continuity.” Afghans across the country either watched or listened to these important debates and welcomed this



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Amb. Hank J. Cohen (Ret.)

# Guinea: The Inevitable Tragedy

## Recent Events in Guinea Should Come as No Surprise



*Happier times ... on a relative scale. Kofi Annan and Lansana Conté. Photo: Eskinder Debebe/UN*

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ON September 28, 2009, a major tragedy occurred in Conakry, capital of the West African Republic of Guinea. Armed military gunned down and perpetrated atrocities against unarmed civilians who had gathered for a peaceful political demonstration. Sadly, for those of us who have followed Guinea over the years, this terrible event did not come as a surprise.

Guinea has not been a happy place since it obtained independence from France in 1958. Among France's 13 colonies in sub-Saharan Africa, only Guinea failed to experience a smooth transition to independence. Indeed, Guinea and France had a nasty divorce, with Paris pulling out all of its support personnel and as much of the infrastructure as it could carry.

In addition to the void left by France, Guinea's first civilian government was a ruthless Marxist regime under President Sékou Touré. Opposition and intellectuals with any promise of leadership were assassinated, imprisoned or chased into exile. Economic policy prohibited even "mom and pop" type private businesses. The population sank into abysmal poverty.

Touré died of natural causes in 1985. He

was replaced by the Army chief of staff, General Lansana Conté, through a self-engineered military takeover. In the absence of democratic institutions, the choice was between the military or Touré's family. The military option proved to be the lesser evil.

Conté's regime removed the harsh elements of its predecessor. Guineans were allowed to have private businesses. The press was unshackled. There was freedom of speech. The labor unions became more militant. A new constitution was written and elections held — but as in most other West African nations at the time, they were rigged. Another major downside existed: under Conté, Guinea suffered heavily from the resource curse. Revenue from Guinea's high quality, abundant reserves of bauxite was squandered in corruption.

To make matters worse, as president Conté allowed the army to sink into indiscipline. After two shooting mutinies over better pay and housing, Conté's eagerness to negotiate led the military to no longer fear his retribution. They began ignoring orders and, in effect, Conté had to continue bribing them in order to stay in power. The problem of indiscipline was further exacerbated by the fact that, due

to inadequate budgetary resources, most of the enlisted men lived among the population with their weapons.

In 2005, Conté slipped into a semi-comatose state. During this time, while the West African drug trade took root across the country, civilian politicians manipulated the sick man into authorizing various corrupt schemes. When Conté finally died in December 2008, the constitutional institutions established to organize a transition were essentially moribund. Rather than allow the senior generals to take over as they did in 1985, a group of younger field grade officers seized power as a military junta. They promised to preside over the transition to democratic elections and not to run for office in the elections themselves. They appointed competent civilian technocrats to ministerial posts and started to clamp down on both corruption and the drug trade with arrests, interrogations and condemnations of former elites being broadcast on television.

Despite the institutional vacuum created by Conté's death and the popularity of the ruling junta, the international community — including the African Union (A.U.) — condemned the military takeover. The

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U.S. Department of State declared the military junta to be illegitimate, refusing to recognize it as the government of Guinea and demanding that it relinquish power to civilians as soon as possible.

In April and May of 2009, the junta's relations with the civilian political parties began to deteriorate. President Moussa Dadis Camara hinted that if the elections were to be held in December 2009, as demanded by the parties, he might decide to run for president himself. This apparent renegeing on the initial promise not to run for office further enraged other African nations and the international community. It was clear to them that any election presided over by the military, with military candidates, would be rigged. Both Africans and non-Africans began to talk about targeted sanctions against junta members. The U.S. government maintained a policy of non-recognition and non-communication.

Between June and September 2009, a stalemate hung over the political space, with the civilian political parties and civil society continuing to ramp up their demand that the junta get out and turn power over to a civilian transition team. The A.U. asked the Economic Community of West African States (ECOWAS) to

take charge of the problem. ECOWAS supported the civilians, putting pressure on the junta.

Camara revealed to private visitors that his concern with political transition was the lack of discipline in the army. He needed time to instill discipline and to regroup troops into barracks where they could be watched and controlled. If he gave up power too soon, there was a strong chance that the military, especially junior officers and enlisted men, would stage another coup.

The increasingly intense stalemate continued until the military's massacre of unarmed civilians on September 28. Camara said that the massacres were perpetrated by out-of-control military personnel. He refused personal responsibility and cited the tragedy as proof that time was needed to reform the military.

After September 28, ECOWAS asked Burkina Faso President Blaise Compaore to mediate between the junta and the civilian political opposition. After shuttle diplomacy, Compaore proposed a transitional government of national unity, with Camara remaining in office, but allowing a civilian prime minister full power to run the government, and an equal division of ministerial posts. The

transition to an election would last for ten months.

The civilian opposition categorically rejected the proposal while expressing continued confidence in the mediator. They declared that the immediate departure of the military junta was a "non-negotiable demand [because they had] the support of the international community." The military junta, on the other hand, accepted the mediator's proposal, so they did not feel under any real pressure to back down. Camara also reminded the electorate that the civilian politicians who demanded his departure were the same people who manipulated the late Conté into corrupt practices.

Whatever the eventual outcome, there is a lesson to be learned about the role of the international community in political conflicts of this type. By making specific demands (i.e. the military must give up power immediately), instead of issuing a more appropriate general call for the restoration of constitutional order, the international community has made it that much more difficult for the mediator to propose a workable solution. In the case of Guinea, the international community has violated the first rule of diplomatic practice: "Above all no zeal." ■



Things are really happening in downtown Conakry. Photo: USAID



# Speaking Frankly About Franken

## What Actually Motivated 30 Republicans to Vote Against the Franken Amendment?



*Not quite so funny. Photo: Sen. Franken*

**R**ECENTLY, there has been significant opposition to an amendment to the Fiscal Year 2010 Department of Defense appropriations bill (H.R. 3326), a bill that would negatively affect the manner in which private contractors are able to engage in dispute-related employment arbitration. This opposition has been controversial in itself, spawning bits featured prominently on the satirical newscast, *The Daily Show*, and a web site that viciously attacks senators who opposed the amendment, branding the 30 Republicans who stood against the bill as “pro-rape.”

The amendment can be traced back to 2005, when Jamie Leigh Jones, a Halliburton/KBR contractor working in Iraq, alleged she was drugged, gang raped and then locked up in a shipping container with neither food nor drink for 24 hours.

It goes without saying that rape is a horrendous act of violence. It is a reprehensible instrument of conflict to which, unfortunately, international stability operations industry is no stranger. Combatants employ rape as a tool of violence, power and — as in cases like Darfur and Eastern Congo — genocide. There are no two ways about it: We all agree that rape is a deplorable act.

Thus, how could 30 Republican senators consciously vote against an amendment that could have prevented the rape of a young 20-year-old girl in the Iraqi desert?

Well, they didn't.

Despite claims to the contrary, those 30 Republican senators did not “vote on rape.” When Jones attempted to sue Halliburton/KBR, it was argued that subject to her employment contract, she was required to pursue her cause via arbitration. It was this block to recourse from the legal system that the Franken amendment aimed to remove. However, in succeeding to do so, it has created opportunity for more problems, a bit like attempting to perform dentistry with a pick-axe.

It was this risk that the 30 senators were mindful of when voting against the amendment — though they might not have been as eloquent as they could have been in articulating their objections. This stance was similarly supported by both the Department of Defense and the White House. Those senators actually voted against a significant and negative change in the legal framework of employee contracts — not in favor of rape.

To put it plainly, it appears that the Franken amendment is cutting off its nose in order to spite its face. Prima facie, this amendment sought to create a fairer regime for employees. But in doing so, it ignored all evidence that demonstrates arbitration to be far fairer to employees. In 2004, the National Workrights Institute found that employees were almost 20 percent more likely to win employment cases in arbitration than in the courts. Employees are also generally more able to avoid the costs of hiring an attorney or suffering from high court costs. The results of the Franken amendment may actually lead to a situations in which employees cannot afford to bring their claims in court and will therefore abandon those claims altogether; or where employees can afford to pursue court action, but thus further burden the legal system, adding to everybody's costs — employee and employer (and, by extension, client and thus often, taxpayer) alike. This could also have the unwanted effect of vastly increasing the cost of conducting stability operations that also play a significant role in preventing acts such as rape abroad.

One may be concerned that, for a crime as serious as rape, a victim should under

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no circumstances be prevented from seeking legal recourse. The U.S. Court of Appeals for the 5th Circuit agrees, which makes this entire bill even more of an exercise in futility. The very situation the Franken amendment sought to address has already been ruled outside of the scope of arbitration; yet the sweeping reforms it heralds would be incredibly problematic in just about every other issue that would otherwise have been subject to arbitration. Indeed, the Department of Defense is skeptical that the requirements could even be properly enforced.

Given that the real losers in this reform would actually be employees, that the reform would not have been the slightest bit relevant to the case it actually sought to address, and that everyone from

contractors to the Department of Defense to the White House has opposed the amendment, one is left to ponder: Why was the amendment even proposed?

Kathleen Parker, in an October 25th Washington Post opinion piece, posited that cynics could be excused for questioning whether there was a wholly political agenda behind this. After all, any opponent to this bill was automatically painted as being “pro-rape.” And who better to paint as such than Republicans, who in Parker’s example, “can’t seem to shake their white-male-patriarchal-oppressor image. Picture it: 30 Republicans, all men, all white, pitted against a young woman who says she was raped by a gang of Halliburton thugs. Voilà: Corporate evil incarnate vs. feminine innocence. Is there a better metaphor for

the public perception of how the parties differ?”[1]

If it is indeed true that Jones’s abhorrent experience was used for cheap political points — in painting political opponents as “pro-rape” — then that would be a great shame. Further, it is preposterous that a bill based around the premise of employee access to justice would do nothing but effectively reduce that very ability of employees to seek recourse from their employers, increasing the burden on the legal system and raising costs across the board. And so long as supporters of this amendment accuse their opponents of being “pro-rape,” it is also a great disservice to Jones and anyone else who has been a victim. ■

[1] Kathleen Parker, “The ‘Rape Supporter’ Ploy,” The Washington Post, October 25, 2009.

## Afghanistan's Elections



*Vote early and vote often. Photo: Afghan National Army*

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constructive development in Afghan election politics. Finally, millions of Afghans braved many threats to their lives and turned out to cast their ballot on August 20th.

These positive but underreported aspects of the Afghan election notwithstanding, the growing terrorist activities of the Taliban and al-Qaeda since 2002, which only intensified on election day, had intimidated and threatened Afghans enough to ensure a low voter turnout. As

a result, intense violence and insecurity in a number of areas in the south and east of Afghanistan prevented national and international election observers from monitoring the voting process there. This led to the reported irregularities, which the Afghan Independent Election Commission and the Electoral Complaints Commission subsequently resolved.

Turning to what to expect in the critical post-election period, international experience is quite instructive. Indeed, it

is clear that holding elections is a democratic exercise that must happen. What, however, matters the most in the case of Afghanistan is the extent to which the international community will firmly commit to a strategic partnership with the country's post-election leadership to help build, reform and equip the Afghan security and governance institutions — both on the national and sub-national levels — so that peace and democracy will take root, evolve over time and become sustainable in Afghanistan.

As far as Afghans are concerned, every recent poll indicates that they are unconditionally committed to democratic security and a future with the international community, not with the Taliban. The United States, Afghanistan and their partners must capitalize on this strategic asset by simply delivering on the basic expectations of the Afghan people. They certainly do not expect the overnight total transformation of pre-war, least developed and post-war, most destroyed country, but rather a minimum of ensuring a stable Afghanistan that will not serve as a transnational terrorist base, as it once did in the 1990s, which unfortunately led to the tragedy of September 11, 2001. ■



# The Color of Government

## A Colorful History of the Private Sector



*Flying Colors. Photo: Stock*

**T**HOMAS the Tank Engine is a private train. The bright red, blue and green locomotives that help to make this bedtime story so fascinating to children are the colors of a private rail system that flourished in England between 1825 and 1946. Colors were used by the pre-1946 rail companies to distinguish themselves from their competitors, and much of the romance associated with steam railroads comes from their distinctive livery. As one historian explains:

“Though the Great Northern and its northerly partner, the North Eastern, both used a sort of grass green, the North Eastern in later years painted footplate edges, tender framing and other lower parts black with red lines, while the Great Northern used a deep reddish brown with vermilion lines for the equivalent parts of its locomotives. There were red engines: fire-engine colored on the Brecon and Merthyr, brownish crimson on the Midland, and Indian red on the Furness. Yellow was once the London, Brighton and South Coast color, while blue in various shades enriched the Great Eastern, the Caledonian, and the Somerset and Dorset.”

Vermillion. Grass green. Fire-engine red.

These are the colors of a public service market. Where there is variegation, we find diversity and choice. Where trains have names — the Rocket, the Baillie MacWheeble, the Orange Blossom Special — railroads have personalities.

When the Reverend Wilbert Awdry published the first of his internationally renowned bedtime stories in 1945, Britain’s railways had yet to be nationalized. He made a brief concession to nationalization when the fat director was transformed into the fat controller; however, Awdry quickly abandoned the idea that his railways had been taken over by the state. Sodor, the imaginary island where Thomas and his friends lived, remained an enclave of privately-owned and operated railroads, ports and power companies.

In Sodor, the nationalized rail system of Britain was “the Other Railway” and for many years its name unspeakable. Awdry wrote of it as a system where they allowed steam engines to rust at the side of the track and be cut up for scrap. It was a grim, gray world, and from time to time, refugees from the other railway would run away to join Thomas and his friends in the colorful world that was Sodor.

Looking back at the public service economy of the 19th century, one is struck by the profusion of color. If we had gathered with the great and the good for the official opening of London’s Westminster Bridge in June 1817, we would have witnessed the massed colors of London’s insurance fire brigades — the blue uniforms of the Sun Insurance Office, the red of the Phoenix, the green of the Royal Exchange, the blue and orange of the Westminster. If we had used the British railway system in the 1840s, we might have distinguished the company police of the London and Southampton Railway in their chocolate-colored tailcoats from those of the Great Western Railway in their dark rifle-green. And if we had lived in San Francisco in the 1870s, we would have had a choice between the red letterboxes of the U.S. Post Office department and the blue letterboxes of the Wells Fargo express company, which offered a faster, more reliable and more expensive service.

By and large, we only find color and personality of this kind where there is competition and for much of the 20th and 21st centuries, diversity and choice faded from government. In a world where public services are delivered on a take-it-

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or-leave-it basis, there is little point in an abundance of color. And where we do find a splash of color in government, it is usually where it is necessary to identify a letterbox or a fire engine amidst the bustle of city streets.

Almost invariably, a diversity of color tells us that a variety of service providers are at work or that they have been at some time in the past. For instance, the brightly colored dress uniforms of some European military regiments date back to a time when they were largely private enterprises, personally raised, outfitted and led by captains and colonels. Their livery was a matter of collective pride and a means of distinguishing them from other corps. One historian observes:

“The increasingly slashed fashion was always considered slightly shocking to contemporary sensibilities, and the Landsknecht fashion of uncovering the upper legs and the prominent codpiece were all intended to shock and remind the observer of the independence of the mercenary.”

Colorful dress was a form of self-

promotion, and it has been suggested that contemporary broadsheets portraying these competing mercenary forces may represent one of the earliest examples of advertising.

Some colors are remembered centuries after the business itself has disappeared. The distinctive yellow postal livery employed throughout Germany, Austria and Scandinavia, and the post horn used as a logo in Austria, Belgium, Hungary and Sweden both come from the Thurn und Taxis family, which operated a postal franchise throughout the Hapsburg Empire for some four hundred years (and was nationalized in 1867).

In a world where public services are delivered by state monopolies, there is little need for diverse logos and colors. Color says “Distinguish me!” Color says “Remember me!” These have great value in the market, where customers have a choice and will buy again from a business that delivers unforgettable service.

Not everyone is attracted by the hoopla of the marketplace. There have always been those who were struck more by the

authority and the dignity of a system planned and coordinated from the center. In the 18th and 19th centuries, it was the post office that one called to mind when speaking of central coordination. So when the English essayist Thomas de Quincy remembers the excitement he felt as a young student riding on the top of a mail coach, he writes with disdain of being challenged by the Birmingham stagecoach “all flaunting with green and gold.” What de Quincy did not understand was that the mail coach itself had been introduced by a private entrepreneur against stiff opposition from the bureaucrats who then managed the Royal Mail.

Of course, there are parts of government where none of us would welcome flamboyance. Most of us would like criminal court judges, environmental regulators and municipal inspectors to govern in neutral tones. And yet, in those public services where the quality of our lives would be enriched through innovation, choice and diversity, few would be unhappy about a splash of vermilion, grass green or fire-engine red. ■



More than just fancy dress. Photo: Pete Souza/White House



component of that is strengthening the regional economic communities and the A.U. so that they can resolve these differences on a political basis instead of letting them turn into violence. Giving those organizations, through the Africa Standby Force (ASF), the capacity to keep the peace — and to enforce the peace if necessary — and try to resolve conflicts in a non-violent manner, is critical.

The international community has to be more willing to come to the support of Africa. I think too often, and Somalia is a case in point, the international community sits on the sidelines, even when Africans are willing to take the lead to resolve the situation. So first and foremost, you have to have, at the regional and continental levels, African institutions that are willing to step up and really nip conflict in the bud with strong political and security levers. And you need an international community that is standing by to support them.

*JIPO: The conflicts in the DRC, Somalia and Sudan seem to monopolize the media coverage of Africa. What are some of the underreported issues on the African continent?*

**Amb Simon:** From a political standpoint, the reappearance of coup d'état in Madagascar, Guinea and Mauritania is certainly a major blow that the world needs to stand up against. That was reported significantly on the continent, but I do not think nearly as much as it should have been in the international community. Clearly, the situation in Zimbabwe continues to be a problem and deserves more coverage than it is getting. And we talk about the Somali pirate situation, but that is part of a broader maritime security issue, which includes drug smugglers as well as pirates, and is having serious effects on West Africa. This is something that the A.U. is focused on, but the international community needs to focus on it as well, because there are many countries at risk of being overwhelmed in West Africa by the narco-traffickers.

However, the real issue that does not get



*The UNAMID force is alive and kicking. Photo: Olivier Chassot/U.N.*

enough reporting on Africa is the great progress that has been made and the opportunities that exist. Today in Africa you have political democracy at an all time high; you have sound conservative economic policy being implemented; and among all the regions in the world, Africa has probably reacted best to maintaining sound economic policies through this latest financial crisis. You have economic growth during the last decade that is significantly higher than what Africa has seen in decades previous, which means that the economic opportunities across the board are significantly higher.

The most important, underreported story on Africa is the economic and social potential that exists on the continent, and so for every Eastern Congo, Somalia and Darfur that we talk about, there are a half dozen or so countries that have settled their conflicts, are moving forward productively and are creating real economic opportunities that the world should take notice of.

*JIPO: What lessons have you learnt over your career in international development and do you have any advice for the Obama administration with respect to Africa?*

**Amb Simon:** Before my experience as U.S. ambassador to the A.U., I was at the Overseas Private Investment Corporation and we worked with businesses that were looking to take advantage of the economic opportunities that were beginning to appear in Africa. At that time, I believed very strongly that Africa would be the next East Asia. My first reaction is

that the potential in Africa is just immense relative to what the perceptions are.

My second lesson though, is that while the potential is immense, it is not inevitable that Africa will realize it. Only through the concerted efforts of African leaders, the African private sector and the international community — including the public and private sectors — will that potential be realized. If we either ignore the problems that exist on the continent, react to them too slowly or with too little effort, I think that potential could easily be lost.

The most important lesson I would impart to the Obama administration is that there has never been a more important time to engage with Africa. It requires addressing existing crises, but also being poised to move quickly against any new crisis that arises. It is vital to reinforce those African countries such as Ghana — where they have had a peaceful transfer of power — and reinforce the positive examples on the continent.

And the main point I would make in all this is that this should be done in a way that follows African leadership; that a big part of the effort should be to strengthen and reinforce the institutions on Africa at the continental, regional and country levels that support these positive developments from the past; and, that when there are problems that occur, be ready to react, but react in support of African leaders who are taking the initiative. ■

# JIPO

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