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# JIPO

JOURNAL OF INTERNATIONAL PEACE OPERATIONS

Pakistan's Shifting Security Situation

Q&A with John Nagl

Challenges of Modern Humanitarian Security

A Positive Future for Guinea?



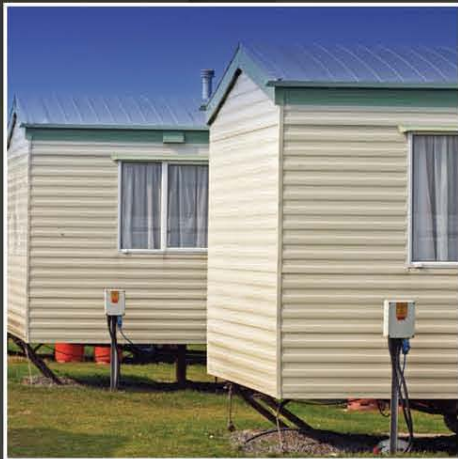
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Photo: Staff Sgt. Jacob N. Bailey /U.S.A.F.

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Doug Brooks

# Forget About It

## The Importance of Lessons Learned for Future Operations



*The operation in Timor-Leste was a relative success. Well, compared to other missions. Photo: Eskinder Debebe/U.N.*

**W**ITH numerous international peace operations underway, as well as larger stabilization efforts in Afghanistan and Iraq, the international community has developed the largest pool of skilled and experienced personnel for peacekeeping and stability operations in history. These ‘small wars’ are the most pervasive and difficult military operations the international community faces, yet successful missions can stabilize entire geographic regions and avert enormous humanitarian suffering. Done poorly, such operations serve no one’s interest and can lead to far greater humanitarian suffering. Unfortunately, the historical default reality is that Western militaries forget how to run peace and stability operations and then have to learn all over again later with the resulting costs in time, blood and treasure.

Western militaries must always consider what kinds of conflicts to prepare for in the future, not one or two years out but 10 or 20 years from today. Obviously, the primary mission

of militaries is to protect the homeland, but the stark reality also includes the low intensity conflicts in which many are currently engaged. The default is to plan for the ‘big wars’ – large unit actions and grand strategic campaigns – which certainly makes sense from a national preservation perspective. The harsh reality, however, is that international policies mean that militaries are far more likely to be engaged in the messy ‘small wars’ – insurgencies, peacekeeping, asymmetrical conflicts and post-conflict reconstruction. We must ensure that the vast expertise currently in the ranks of today’s militaries is not squandered.

At a recent stability operations conference, U.S. Army Lt. Col. James Crider gave an impressive presentation on his unit’s activities in a Sunni neighborhood in Baghdad as a part of the ‘surge.’ Their efforts were remarkably successful, but the tactics were adaptations and technological upgrades of classic counterinsurgency ‘hearts and minds’ projects. The success of their effort benefited as

much from the experience of the unit – many of the personnel had been deployed to Iraq previously – as the tactics they brought to the field, and his determined unit proved that in the most difficult and complex environments stability operations can succeed.

Unfortunately, we are more likely to be doomed to repeat the past. Scholar James Jay Carafano found a fascinating quotation from the U.S. government report on the military occupation of the Rhineland after the First World War, “despite the precedents of military governments in Mexico, California, the Southern States, Cuba, Puerto Rico, Panama, China, the Philippines, and elsewhere, the lesson seemingly has not been learned.” And the lesson has yet to be learned today.

Although few would think to look to the Vietnam War for success stories, after many false starts in 1967 the United States formed the CORDS program (Civil Operations and Revolutionary Development Support). CORDS ► 06

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**04** ◀ largely succeeded in developing the South Vietnamese economy, creating grassroots democracy and helping to undermine the Vietcong guerrillas. The success came too late as the withdrawal of the U.S. forces ended the program prematurely, and ultimately South Vietnam fell to a conventional military assault from the North.

Beyond the U.S. experience we can see the eventual successes in Northern Ireland, Timor-Leste and elsewhere. But all these examples began with fits and problems, which might have been avoided with militaries better prepared for counterinsurgency and reconstruction from day one of their deployment.

What does this have to do with the private sector? I often point out that the industry does not make the big international peace operations decisions; we are simply hired to help make those policies succeed. When the militaries taking the lead on a peace operation are professional, experienced and well trained for the mission it simplifies the industry's support role. Poorly trained militaries, inexperience, and a lack of robust international support can add risk, years of chaos and complexities to a peace operation, with all the dire humanitarian complications that implies.

In the medium and long term, it's a given that Western militaries will be training for the big war. Nevertheless, from a humanitarian perspective, it is imperative that we break the pattern. Western militaries must also ensure training for the small wars and stability operations that history tells us are far more likely to be the deployments of the future. ■



Guest speakers and the IPOA organizing committee for IPOA's London Conference held on January 29, 2009 at the Marylebone Cricket Club at Lord's Cricket Ground. From left to right: Jared Lawyer, Briony Sturgess, J. J. Messner, Rt. Hon. Lord Robertson, Col. Tim Collins, Joseph Lacey-Holland, Doug Brooks. Photo: IPOA.

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# Standards: The Next Generation

## IPOA Unveils the Twelfth Version of the Code of Conduct



*IPOA Standards Simulation 2008: Doug Brooks, J. J. Messner, Mel Smith and David Hammond. Photo: Melinda Baker/IPOA.*

**T**HE IPOA Code of Conduct is a living document that strives to raise the level of standards of ethics and accountability within the peace and stability operations industry. On February 11, 2009, the IPOA membership ratified the twelfth version of the Code, the result of a comprehensive and inclusive revision process.

IPOA has grown to over 50 member companies that provide a wide range of services in conflict and post-conflict environments. As a result, the Code is a broad document, covering matters such as human rights, transparency, accountability, subcontracting, ethics and rules on the use of force. The Code is both significant and effective because it is enforceable. Indeed, anyone may submit a complaint against an IPOA member, and if that member is found to have seriously violated the Code, they could ultimately be expelled from the association.

Planning for the new Code began with IPOA's first Code of Conduct

Convention in mid-2008. The aim of the event was to examine proposals for revising the Code, which amounted to proposed amendments to 22 different clauses. The event was attended by key stakeholders to the industry ranging from IPOA member companies to government officials and NGOs. Companies in the industry are sometimes accused of lacking transparency and accountability; the direct and broad participation of so many different stakeholders in this process hopefully counters these criticisms.

The Code aims to fulfill one of IPOA's core missions of promoting "high operational and ethical standards of firms active in the peace and stability operations industry." The Code is important for leading the industry in ensuring high standards. As an organic and continually evolving document, the Code aims to create a common standard of ethics throughout the industry, and to ensure its continued relevance, the Code is revised every two years. Respect is growing for the Code, and

recently, the Ministry of Defense in Afghanistan began requiring that all private security companies operating in the country abide by the IPOA Code of Conduct. To make the Code as accessible as possible, it is also available in several other languages, including Arabic, French, German, Russian and Spanish.

IPOA aspires to represent the gold standard of ethical practices for companies and individuals operating in peace and stability environments. The association's members are required to comply with the Code so as to enhance their organization's status, as well as improve the industry's reputation. The Code will continue to improve in its development as it is, admittedly, still in many ways a work in progress.

The very existence of the Code itself as well as the participation of IPOA member companies in the Code of Conduct Convention, reveals the industry's willingness to confront the challenges and criticisms to the private sector's operations. ■





# Code of Conduct

Version 12 | Adopted February 11, 2009

## *Preamble: Purpose*

This Code of Conduct seeks to ensure the ethical standards of International Peace Operations Association member companies operating in conflict and post-conflict environments so that they may contribute their valuable services for the benefit of international peace and human security.

Additionally, Signatories will be guided by all pertinent rules of international humanitarian and human rights laws including as set forth in:

- Universal Declaration of Human Rights (1948)
- Geneva Conventions (1949)
- Convention Against Torture (1975)
- Protocols Additional to the Geneva Conventions (1977)
- Chemical Weapons Convention (1993)
- Voluntary Principles on Security and Human Rights (2000)
- Montreux Document on Private Military and Security Companies (2008)

Signatories are pledged to the following principles in all their operations:

### *1. Human Rights*

- 1.1. Signatories shall respect the dignity of all human beings and strictly adhere to all applicable international humanitarian and human rights laws.
- 1.2. Signatories shall take every practicable measure to minimize loss of life and destruction of property.

### *2. Transparency*

- 2.1. Signatories shall operate with integrity, honesty and fairness.
- 2.2. Signatories shall, to the extent possible and subject to contractual and legal limitations, be open and forthcoming with relevant authorities on the nature of their operations and any conflicts of interest that might reasonably be perceived as influencing their current or potential ventures.
- 2.3. Nothing contained in this Code of Conduct shall require Signatories to disclose information in violation of: applicable law; contractually required confidentiality; or any legally recognized privilege. Further, nothing in this Code of Conduct shall require Signatories to violate domestic law.

### *3. Accountability*

- 3.1. Signatories, understanding the unique nature of the conflict and post-conflict environments in which many of their operations take place, fully recognize the importance of clear and operative lines of accountability to ensure effective peace and stability operations and to the long-term viability of the industry.

- 3.2. Signatories shall support effective legal accountability to relevant authorities for their actions and the actions of their personnel. Signatories shall proactively address minor infractions, and to the extent possible and subject to contractual and legal limitations, fully cooperate with

official investigations into allegations of contractual violations and breaches of international humanitarian and human rights laws.

3.3. Signatories shall take firm and definitive action if their personnel engage in unlawful activities. For serious infractions, such as grave breaches of international humanitarian and human rights laws, Signatories should report such offences to the relevant authorities.

### *4. Clients*

4.1. Signatories shall only work for legitimate, recognized governments, international organizations, non-governmental organizations and lawful private companies.

4.2. Signatories shall refuse to engage any unlawful clients or clients who are actively thwarting international efforts towards peace.

### *5. Safety*

5.1. Signatories, recognizing the often high level of risk inherent to operations in conflict and post-conflict environments, shall strive to operate in a safe, responsible, conscientious and prudent manner and shall make their best efforts to ensure that their personnel adhere to these principles.

### *6. Personnel*

6.1. Signatories shall ensure that their personnel are fully informed regarding the level of risk associated with their employment, as well as the terms, conditions and significance of their contracts.

6.2. Signatories shall ensure that their personnel are medically fit and are appropriately screened for the physical and mental requirements for their duties according to the terms of their contract.

6.3. Signatories shall utilize adequately trained and prepared personnel in all their operations in accordance with clearly defined company standards that are appropriate and specific to their duties undertaken and the environment of operations.

6.4. Signatories shall properly vet, supervise and train personnel. Training shall include instruction on applicable legal framework(s) and ethical conduct.

6.5. Signatories shall conduct all reasonable due diligence in their hiring and subcontracting practices to avoid engaging personnel whose conduct adversely affect their suitability, in particular in regards to violating international humanitarian and human rights laws.

6.6. Signatories shall act responsibly and ethically toward their personnel, including ensuring personnel are treated with respect and dignity, and responding appropriately if allegations of personnel misconduct arise.

6.7. Signatories shall, where appropriate, seek personnel that are broadly representative of the local population.

6.8. Payment of different wages to different nationalities must be based on merit and national economic differential, and cannot be based on racial, gender or ethnic grounds.

6.9. In the hiring of personnel, Signatories shall respect the age-minimum standard of 15 years of age as defined by the International Labor Organization Minimum Age Convention (1973). In the hiring of armed security personnel, Signatories shall respect the age-minimum standard of 18 years of age as defined by the Optional Protocol to the United Nations Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (1989).

6.10. No personnel will be denied the right to terminate their employment. Furthermore, no Signatory may retain the personal travel documents of their personnel against their will.

6.11. Signatories shall provide their personnel with the appropriate training, equipment and materials necessary to perform their duties.

6.12. Signatories shall not engage or allow their personnel to engage in the act of trafficking in persons. Signatories shall remain vigilant for instances of trafficking in persons and, where discovered, shall report such instances to relevant authorities.

6.13. Personnel shall be expected to conduct themselves humanely with honesty, integrity, objectivity and diligence.

#### *7. Insurance*

7.1. Foreign and local personnel shall be provided with health and life insurance policies appropriate to their wage structure and the level of risk of their service as required by law.

#### *8. Control*

8.1. Signatories shall endorse the use of detailed contracts specifying the mandate, restrictions, goals, benchmarks, criteria for withdrawal and accountability for the operation.

8.2. Contracts shall not be predicated on an offensive mission unless mandated by a legitimate authority in accordance with international law.

8.3. In all cases- and allowing for safe extraction of personnel and others under the Signatories' protection-Signatories shall speedily and professionally comply with lawful requests from the client, including the withdrawal from an operation if so requested by the client or appropriate governing authorities.

#### *9. Ethics*

9.1. Signatories shall go beyond the minimum legal requirements and support additional ethical imperatives that are essential for effective peace and stability operations:

##### *9.2. Rules for the Use of Force*

9.2.1. Signatories that could potentially become involved in armed hostilities shall have appropriate Rules for the Use of Force established with their clients before deployment, and shall work with their clients to make any necessary modifications should threat levels or the political situation merit change.

9.2.2. All Rules for the Use of Force shall be in compliance with international humanitarian and human rights laws and emphasize appropriate restraint and caution to minimize casualties and damage, while preserving a person's inherent right of self-defense.

##### *9.3. Support of International Organizations, Non-Governmental Organizations and Civil Society*

9.3.1. Signatories recognize that the services relief organizations provide are necessary for ending conflicts and alleviation of associated human suffering.

9.3.2. Signatories shall, to the extent possible and subject to contractual and legal limitations, support the efforts of international organizations, humanitarian and non-governmental organizations and other entities working to minimize human suffering and support reconstructive and reconciliatory goals of peace and stability operations.

##### *9.4. Arms Control*

9.4.1. Signatories using weapons shall put the highest emphasis on accounting for and controlling all weapons and ammunition utilized during an operation and for ensuring their legal and proper accounting and disposal at the end of a contract.

9.4.2. Signatories shall refuse to utilize illegal weapons, toxic chemicals or weapons that could create long-term health problems or complicate post-conflict cleanup and will limit themselves to appropriate weapons common to military, security or law enforcement operations.

9.4.3. Signatories shall only obtain weapons through legal channels and shall not engage in illicit arms trading, and shall comply with United Nations arms embargos.

##### *10. Partner Companies and Subcontractors*

10.1. Due to the complex nature of the conflict and post-conflict environments, Signatories often employ the services of partner companies and subcontractors to fulfill the duties of their contract.

10.2. Signatories shall select partner companies and subcontractors with the utmost care and due diligence to ensure that they comply with all appropriate ethical standards, including the IPOA Code of Conduct.

10.3. Signatories shall encourage the recognition of and compliance with the standards contained within the IPOA Code of Conduct by partner companies, subcontractors and the industry as a whole.

##### *11. Application and Enforcement*

11.1. This Code of Conduct is the official code of IPOA. Signatories shall maintain the standards laid down in the IPOA Code of Conduct.

11.2. The enforcement of the IPOA Code of Conduct is guided by the IPOA Enforcement Mechanism, the complaint system available to the public at-large. Signatories who fail to uphold any provision contained in this Code may be subject to dismissal from IPOA.

11.3. Signatories shall endeavor to inform personnel, clients and subcontractors of the IPOA Code of Conduct and IPOA Enforcement Mechanism. Signatories shall endeavor to publicize both to local communities.

11.4. Signatories shall have an effective mechanism for personnel to internally report suspected breaches of international humanitarian and human rights laws and violations of other applicable laws or the IPOA Code of Conduct. Signatories shall not retaliate against any person who reports in good faith and on reasonable grounds such suspected violations.

*Original Version Adopted April 1, 2001*

*Version 12 Adopted  
February 11, 2009*

# Pakistan's Shifting Security

## Regional Challenges for a Tough Neighborhood



Photo: Tech. Sgt. Joseph McLean/U.S.A.F.

**C**URRENTLY terrorism, crime and social unrest are prevalent in all four provinces of Pakistan. The country suffers from a declining economy, military actions in the Northwest Frontier Province and instability along the Afghan border. Organizations operating in the region must re-evaluate and upgrade their security and safety programs to meet the changing conditions in the region.

It was as recent as 10 years ago that terrorism was virtually unheard of in Pakistan. Tourism was high and foreign travelers felt safe traveling through most of the regions. Unfortunately, the playing field has changed and International Non-Governmental Organizations and other associated entities now encounter rising security threats that force the implementation of new, more effective security policies and procedures, evacuation plans and business continuity plans.

Many risk managers look for a blanket security solution to answer needs in all regions of Pakistan. However, the days of relying on brighter lights,

higher walls and a lower profile are over. Clearly, there are foundational security elements that can be utilized in all locations. However, in order to truly strengthen a corporation's security posture in Pakistan, each location must be individually analyzed and closely monitored so that specific risks can be mitigated and avoided.

To demonstrate some of the regional differences in Pakistan, this article focuses on the following five cities: Islamabad, Lahore, Mansehra, Quetta and Karachi. These cities are representative of the different security approaches required to ensure a successful safety program.

### Islamabad – Political Focus

As the capital city, Islamabad is at the center of the political unrest that is currently plaguing Pakistan. While there have been several attacks on Western targets, many of the terrorist and criminal acts are directed toward Pakistani government representatives and interests. While Western interests may not be the direct target in these

circumstance, there is still a very real threat through residual effects of terrorist action. In September of 2008, the Marriott Hotel was the target of a terrorist attack that was directed primarily at Pakistani government officials who were attending the Ramadan Iftar dinner. This hotel is extremely popular for Western travelers in Islamabad and there were many indirect injuries that resulted from the attack.

It is essential that companies monitor the political situation not only in Pakistan, but specifically any events in Islamabad that may create opportunities for a terrorist group to make a political statement. Updated security briefings are essential for any incoming expatriates that will be working in Islamabad. These briefings must also be provided to local national personnel as they are more often becoming the targets of attacks on Western organizations.

In most areas of Pakistan it is beneficial to coordinate with local and federal law enforcement ► 12



*A U.S. soldier watches over the Afghan-Pakistan border. Sgt. Stephanie L. Carl / U.S. Army*

11 ◀ agencies, which at times becomes difficult given the wide variety of agencies that operate in each region. In any given city there may be up to several dozen agencies and sub-agencies. Local Pakistani security companies can provide regional expertise to determine which law enforcement agencies need to be contacted. This will greatly improve the security resources available for operations and information gathering.

#### **Lahore – Religious Focus**

Lahore is generally considered a “safer” city in comparison to Islamabad and Karachi. However, its safety is somewhat tenuous. In Lahore there is a greater emphasis on issues related to blasphemy against Islam as opposed to political dissent. On February 14, 2006, after the printing

of a cartoon in the Danish newspaper Jyllands-Posten, which depicted the prophet Muhammad in an unflattering way, citizens of Lahore took to the streets in violence. There was a great deal of damage to property, as well as several deaths and injuries.

As with many areas in Pakistan, a great deal of the threat to personnel comes from peripheral damage more than specific targeting. Risk managers must monitor and understand the different types of events that can trigger violent reactions in Lahore.

Proper crisis management plans should be in place before opening an office in Lahore or soon thereafter. The ability to react appropriately to uprisings in the region can seriously diminish the threat to employees.

#### **Mansehra – Cultural Focus**

While conditions can change quickly in any region of Pakistan, Mansehra is considerably less volatile than Islamabad and Karachi. Primary threats stem from cultural perceptions in the area of INGO and affiliate entities. Locals in the region are extremely sensitive to what they perceive as inappropriate behavior or activity that would not be acceptable religiously or culturally.

In September 2008, Pakistani law enforcement agents in Mansehra reported that members of one INGO received threatening phone calls from a militant group in the area when a male and female employee of the INGO shared accommodations. Strict religious groups in the regions do not allow unmarried men and ▶ 14



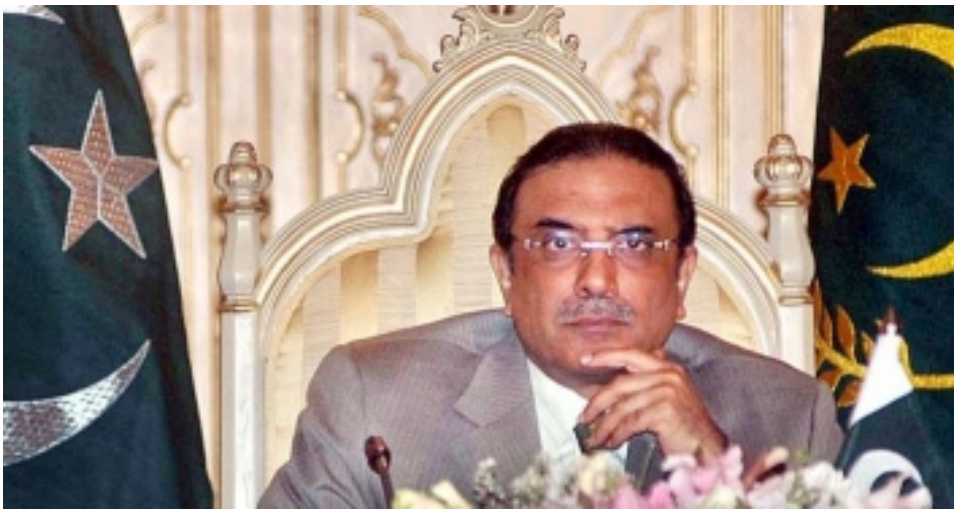
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*Difficult job: Pakistan President Asif Ali Zardari. Photo: Pakistan M.O.F.A.*

12 ◀ women to share accommodations. Following the threatening calls, there was a shooting attack on the same INGO as they were operating in the field. Local security officials linked this attack to the perception of inappropriate behavior by religious groups in the area.

Any organization operating in Mansehra and the surrounding region must provide appropriate cultural training to all employees operating in the field. The better understanding employees have of the cultural and ethnic differences in each area, the more they will be able to avoid potential offenses. Cultural training must include aspects of appropriate behavior by female employees operating in the field.

Typically it is the view of most western organizations that maintaining a “low” profile is conducive to minimizing risk to the organization and its employees. In Mansehra the exact opposite is true. Small communities are well aware of the presence of INGO’s and attempts at low profile operations only exacerbate the suspicions of locals. Operating under a more transparent profile is a good way to alleviate the suspicions of locals and gain acceptance in the community. This should include regular interaction with local leaders

and law enforcement representatives.

### Quetta – Tribal Focus

Quetta (and Baluchistan as a whole) is in a state of unrest. After the assassination of a prominent Beloch tribal head in 2006, there have been major increases in ethnic targeting in the region. Organizations such as the Beloch Liberation Army and the Beloch Republican Army have made it their goal to kill non-Beloch citizens in the region.

Local nationals who are not Beloch or Pashtun have been targeted in shootings and other violence. Locals are often complacent regarding their own personal security due to their familiarity with the area. However, they must be continuously updated on the potential threat due to their ethnic background.

Maintaining a low profile and promoting constant awareness of the security situation in Quetta is essential in promoting a safe operating environment. While a low profile is effective for operations within Quetta; operations throughout Baluchistan should be readily coordinated with local law enforcement agencies in order to receive beneficial security information and assistance. This should be done even if this comes at the expense of maintaining a low operating profile.

### Karachi – Volatility Focus

Karachi is very unpredictable in the face of political or ethnic instability. While things may seem calm in the city, one small incident can cause the citizens of Karachi to break out into violence. During these times of public violence in Karachi, the main targets are commercial areas with random vandalism being prevalent. Many times the anger and violence turn towards Western targets.

It is critical that no personnel travel during times of distress in Karachi. Careful monitoring of the security situation in Karachi can ensure efficient dissemination of information and direction to employees. Employees and organizations should maintain a low profile to help avoid specific targeting by terrorist and criminal groups.

Crime is a much larger concern in Karachi than in other regions in Pakistan. Express kidnapping, theft and other criminal attacks are a daily occurrence. It is critical that all employees in Karachi are made aware of the areas of concern within Karachi. Both expatriate and local employees should be given regular security briefings to inform them of current threatening activities.

Companies operating in Pakistan must learn how to shift their security practices in order to effectively meet the safety needs of a specific area. Cultural, religious, political and regional understanding is the first step in building a pro-active and successful security and safety policy while operating in Pakistan. Security personnel must then diligently review evacuation, crisis management and business continuity plans to ensure that they meet the current demands of the region. ■

# Are We There Yet?

## As Foreign Forces Prepare to Draw Down in Iraq, is Iraq Ready?



*The sun is setting on U.S. involvement in Iraq. Photo: Sergeant Jason Fudge/USMC*

THE relatively peaceful balloting in Iraq's provincial elections in January strengthened President Barack Obama's case for a 16-month time frame for a U.S. troop draw down. But what will come next? Will Iraq spiral into another round of civil war once U.S. combat troops leave, or has the country recovered sufficiently to weather new power struggles that the elections foreshadow?

The last elections, held in 2005, had actually made matters worse. Group identities were reinforced; the Sunni population boycotted the polls (only 2 percent voted); the insurgency and terrorism intensified; and civil war raged in 2006 and 2007. Without coalition forces, Iraq would likely have disintegrated.

This year, things are different. Voters had a greater say in selecting individual candidates, and there was fierce political competition as 14,428 candidates competed for 440 local council seats. Voter turnout was a disappointing 51 percent, lower than

anticipated, but it substantially improved among the Sunni population. Bombings, assassinations, and kidnappings still occur nearly every day, but overall violence is trending downward. In January 2008, over 2,000 people were killed, as compared to 240 in January 2009.

Is it safe to conclude, therefore, that Iraq has reached a "tipping point"? Not yet. U.S. officials have correctly warned that the situation remains fragile and reversible. The question of whether Iraq will slip back into chaos or move toward stability depends on how the transfer of power occurs, what the results of national elections at the end of the year will bring and, most importantly, how Iraq's political class addresses formidable problems that lie ahead.

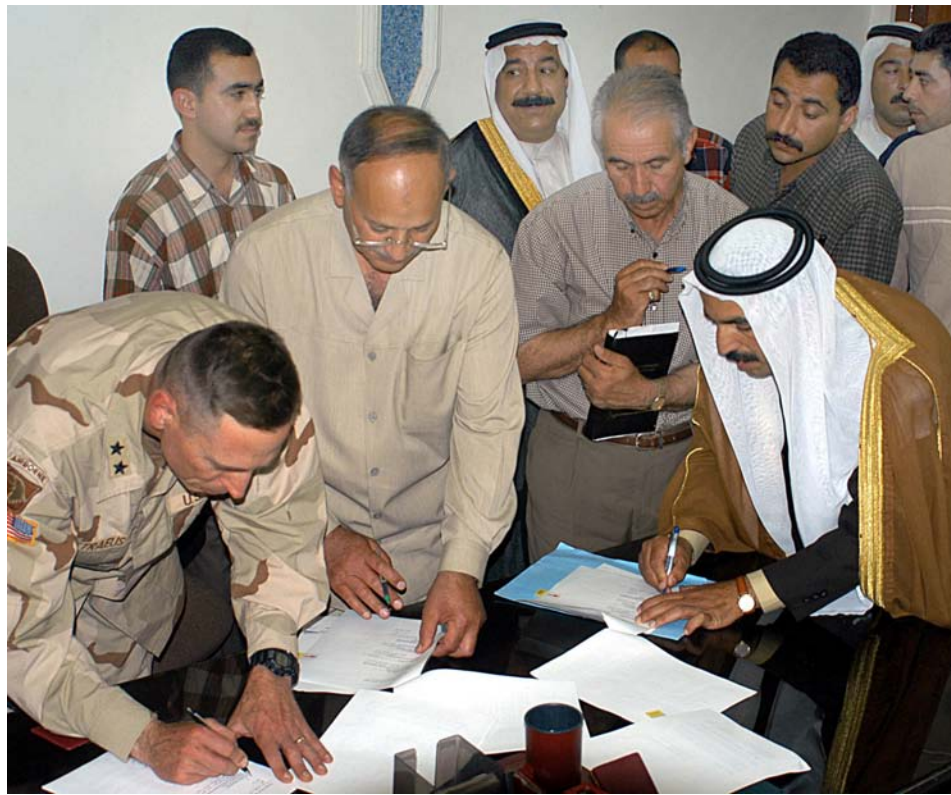
Four major challenges must be addressed if Iraq is to make the most of these incipient signs of hope. The first and most deeply-rooted hurdle to overcome is persistent ethnic and sectarian rivalries. Group identities are as strong as ever and, without

fundamental reconciliation, could break the country apart. Provincial elections brought Sunnis back into the political fold, but these were essentially Arab elections and, this time around, it was the Kurds who stood back. They only took part in areas where they were a minority, such as Mosul and its environs. There was no voting at all in the four northern Kurdish provinces because of the unresolved status of Kirkuk, an oil-rich, multi-ethnic city claimed by both the Kurdistan Regional Government and the Arab-dominated central government.

Split between Kurds, Arabs and Turkmen, Kirkuk is a dangerous flashpoint, symbolizing the larger power struggle between Kurds, who seek autonomy or independence, and Arabs, who are suspicious of Kurdish expansion. The Kurdish region functions, in essence, as a state-within-a-state, commanding its own armed forces (pesh merga), controlling its own borders and negotiating its own oil contracts with foreign companies in defiance of the central ► 16

15 ◀ government. It has entered into an alliance with Shiites in parliament. But new coalitions are emerging with Sunnis back in play, the Shiites badly divided and secular parties gaining ground. It is not inconceivable to imagine that Sunnis and Kurds may find common cause in resisting Shiite domination at a time when they are at each other's throats. Other minorities, such as Christians, had their political quotas reduced in the provincial contest, creating additional grievances over lack of political representation. It is too early to forecast where this may lead, but it is likely to set off more power struggles over control of the center.

The Kurdish-Arab divide represents only one of multiple communal



Plenty more of these to follow. Photo: Pfc. James Matise/U.S. Army

## “ U.S. officials have correctly warned that the situation remains fragile and reversible. ”

rivalries. The three-way inter-communal tug-of-war between Kurds, Sunnis and Shia after the American invasion in 2003 has now fragmented into intra-ethnic and sectarian fault lines. Iraq is a country divided by Kurd against Arab, Shiite against Sunni, Shiite against Shiite, and Sunni against Sunni, with minorities caught in between. Add to the mix personalities -- imams, ayatollahs, ward politicians, warlords, and, most recently, the tribal sheikhs, who switched from supporting the insurgency to helping U.S. forces drive Al-Qaida from Iraq. One might see this rivalry as a healthy check against centralization, so long as it is channeled into peaceful competition at the polls, parliamentary compromise, inclusive politics and juridical procedures for resolving disputes.

But there are alarming signs that these are not yet the rules of the game. In the hard-fought provincial election in

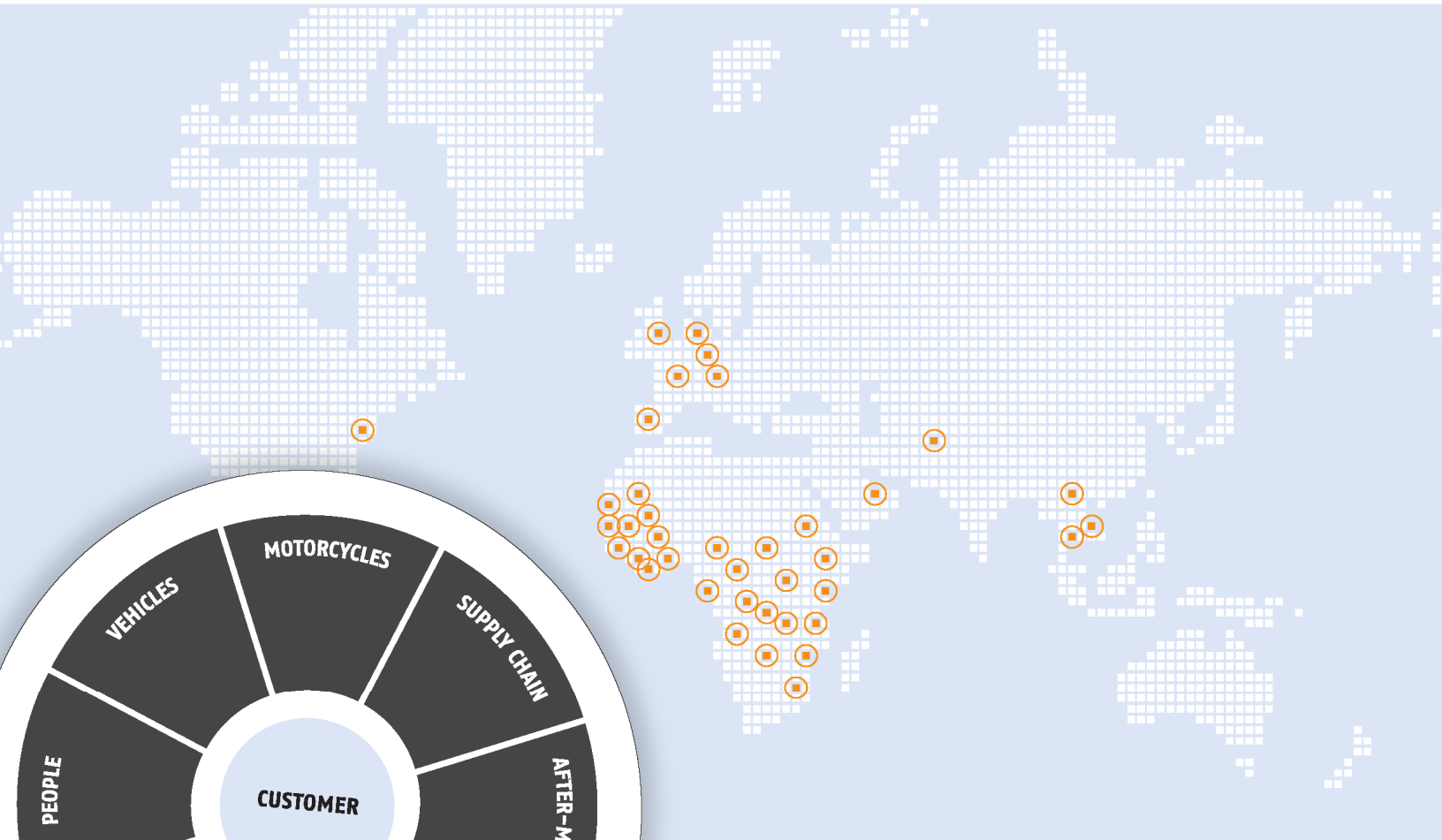
Anbar province, for example, the tribes that formed the heart of the Sunni Awakening that turned against Al-Qaida, challenged the dominant religious Iraqi Islamic Party at the polls. When the tribes, who thought they had won, learned that the Iraqi Islamic Party might become the victor, their leaders threatened to take up arms and launch a new war against the Islamist party and their defenders.

A second major challenge is the highly vulnerable economy. Heavily dependent on oil income, Iraq is dependent upon fluctuating oil prices. Production is up to 1.89 barrels per day, with the government hoping to reach two barrels per day this year, but the average price that Iraq receives today is just \$37 a barrel. Iraq's \$64 billion budget this year is based on revenues from an expected \$50 a barrel. Oil accounts for half of the country's gross domestic product, but the sector only employs one percent of the work

force. Foreign investment is essential to the country's reconstruction and observers worry that, with a global economic downturn and low prices, it might not be readily forthcoming.

Reduced revenue and sectarian strife will heighten corruption, which already saturates government ministries and official transactions. Iraq has been ranked as one of the top five most corrupt countries in the world. Tens of billions of dollars in American aid have been wasted, and public services suffer from the government's inability or unwillingness to implement public projects to meet basic human needs. Lack of performance is eroding confidence in the country's economic management, making it difficult to attract foreign investment or international aid, gradually undermining the legitimacy of the state. For a variety of factors, neither a hydrocarbon law nor a revenue-sharing formula has been ► 18





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16 ◀ agreed upon.

A fourth challenge is the pervasive presence of independent militias. Iraq is a highly militarized society with a heavily armed population; nearly every family owns automatic weapons. Concrete blast walls that snake across the capital have spawned neighborhood defense units, grassroots militias and vigilante groups that protect enclaves based on residential patterns created by “ethnic cleansing” during the height of the conflict.

Controlled by politicians, warlords, sheikhs, tribal leaders, religious leaders and even factions within the state apparatus, the militias range from rump Al-Qaida cells controlled by die-hard extremists to rival Shiite loyalists who could be activated at any time and disgruntled tribal Awakening forces, whom the government fears. Prime Minister Nouri Al-Maliki has won praise for eliminating (with U.S. back-up) most militias in Basra, but he has also created new ones of his own. He has formed units within the armed forces that bypass the chain of command and report directly to him, and he has cultivated a network of national tribal councils that could be the nucleus of a personal militia.

Sectarian rivalries, a vulnerable economic base, widespread corruption and multiple militias pose the most dangerous existential threats to Iraq today. That does not even begin to cover the range of other pressing issues: some four to five million refugees and internally displaced persons, thousands of political detainees, high unemployment, a youth bulge, poverty and inequality (12.5 percent of the population are dependent upon subsidized food rations), and environmental, sanitation, housing and health problems

that are bound to worsen with a 3 percent population growth rate.

The United States must not abandon Iraq, as it abandoned Afghanistan after the Soviet defeat. Instead, it must transform its military footprint into a civilian one. Iraq needs specialists and professionals who can focus on the practical tasks of state-building, regardless of who is elected. The outcome of elections is important, but in the long term, it is less so than the outcome of efforts to strengthen the system of justice, the civil service, the police and the executive and legislative branches of government.

We will know that Iraq is on the road to recovery when accountability and transparency are built into all government agencies, the rule of law is entrenched, sectarian rivalries diminish, militias go out of business, corruption is curtailed, the economy grows, human rights (including minority rights) are protected and the quality of life improves for all the public.

When U.S. troops leave, the country is not likely to collapse immediately, as some have predicted. A window of opportunity exists for sustained improvement. However, other scenarios are equally and, from some perspectives, more likely – a military coup d’etat, a strongman state, another round of civil war, violent partition, or a Lebanization of Iraq, in which the country becomes a brittle patchwork of ethnic or sectarian groups vying for power with support of foreign powers. The United States can help avert these scenarios, but they cannot do what Iraqis must do themselves. If they fail, the United States will not come to the rescue militarily. Iraq will be on its own. ■

# A Good Withdrawal

## How the U.S. Can Withdraw From the Iraq. Well.



What should we mark as fragile? Photo: Spc. Brian D. Jesness/U.S. Military

**D**ESPITE an agreement to withdraw all U.S. forces from Iraq, there is significant disagreement and confusion about the time necessary to complete a withdrawal. Proponents of maintaining a significant troop presence in Iraq as long as possible have asserted that a withdrawal of the current 140,000 American troops and equipment from the country in less than the three years—as mandated by the bilateral Status of Forces Agreement (SOFA)—would be fraught with risk, uncertainty and overwhelming logistical complications.

For example, according to a recent ABC News piece, several commanders in Iraq stated that there was “no way” President Obama’s plan of withdrawing one to two brigades per month could work logistically—although none of them agreed to be quoted on the record.[1] This opinion was echoed by Admiral Michael Mullen, the chairman of the Joint Chiefs of Staff, in a Pentagon news conference shortly after the election of President Obama. Mullen argued

that, “to remove the entire force would be, you know, two to three years.” Moreover, in early February 2009, top military and diplomatic advisors submitted a report to President Obama that spelled out the risks of drawing down U.S. forces in Iraq in less than 23 months.

Many who argue for an extended redeployment do so simply in order to “stay the course” in Iraq, and cherry-pick logistical issues to make the case for an extended U.S. presence. But objective analysis shows that it is not only possible, but necessary, to conduct a safe and responsible redeployment of U.S. forces from Iraq in no more than 10 months. Our military can accomplish such a task, should it be assigned, if it uses all elements of U.S. military power, focused on our land forces’ proficiencies in maneuver warfare and logistics. A massive, yet safe and orderly redeployment of U.S. forces, equipment and support personnel within 10 months is surely daunting—but it is well within the exceptional logistical capabilities of the U.S. military.

Those who argue for a rapid withdrawal of U.S. forces over 10 months have often been accused of adopting an unrealistic approach. This is a misplaced critique. It is certainly possible to conduct a rapid withdrawal of U.S. forces, in perhaps as short a time as three months if the U.S. military, in the words of Iraq war veteran and military analyst Phillip Carter, were to effectively conduct an “invasion in reverse.”[2]

If the U.S. Army were ordered to withdraw to Kuwait in that short a time, they could do so quickly and relatively safely. Yet such an exit would sacrifice a significant amount of equipment and create an instantaneous political and security vacuum similar to that created by the initial overthrow of Saddam Hussein. While this option is certainly feasible, it is not the best course of action.

A phased military redeployment from Iraq over the next 8 to 10 months would begin extracting U.S. troops from Iraq immediately and could be completed by December of ► 20

19 ◀ 2009. During this timeframe, the military will not replace outgoing troops as they rotate home at the end of their tours, and it will draw down force and equipment levels gradually, at a pace similar to previous rotations conducted by our military over the past four years.

A vast movement of this size is not without precedent. Over 211,000 pieces of equipment and a quarter of a million people were rotated into and out of Iraq from December 2003 to May 2004 during Operation Iraqi Freedom II. Over a six-month period, the Pentagon moved 130,000 troops out of Iraq and 105,000 into the country in the largest rotation since World War II. The vast movement of forces was described by the military itself as unprecedented in scope and risk.

The rotation was successfully completed in an orderly fashion and without a large spike in casualties, despite initial criticism and uncertainty surrounding the operation. Brig. Gen. Mark Kimmitt, then the deputy director for coalition operations who went on to become assistant secretary of state for political-military affairs, said after the rotation, "I think it's a great credit not only to the logisticians who planned it, but the leaders who led it."<sup>[3]</sup> Even during the rotation, Gen. Kimmitt recognized just how smoothly these logistical challenges were being met, saying, "The real proof of how well this is going is not just the fact that we've been able to do this somewhat seamlessly...but that we've also been able to maintain an offensive operational tempo during this time period. We have not had to stop the offensive operations to transfer the forces."<sup>[4]</sup>

The eight- to 10-month time frame is based on two critical assumptions.

First, the primary objective of a U.S. withdrawal is to get soldiers and Marines to Kuwait safely. Those advocating that we remain in Iraq for a long period have noted that U.S. facilities in Kuwait are capable of loading and exporting the equivalent of only one brigade per month. But getting soldiers and Marines to safety in Kuwait in the first place matters more than ensuring that one unit's equipment is shipped out before another unit can exit. Once soldiers, Marines and their equipment are safely in Kuwait, the main objective of leaving Iraq will have been accomplished.

Second, withdrawal time will depend largely on the amount of equipment the military decides to take with it. Sensitive material such as communications equipment and costly and sophisticated weaponry must be removed but the military need not remove every blast wall, refrigerator and Portajohn from every base in Iraq. Better to take a cost-effective approach to redeployment. Ours is not a "No Forward Operating Base Left Behind" strategy.

A phased redeployment of U.S. forces over 10 months has at least four advantages. First, a withdrawal is a conventional operation that plays to the strengths of the U.S. military. The Army's institutional and operational strengths rest on both advanced logistics and maneuver tactics: strengths crucial to a redeployment.

Second, a phased redeployment does not leave a sudden and immediate power vacuum in the country. By putting the Iraqi government and its neighbors on notice that they--not the United States--will be responsible for the consequences of Iraq's internal stability, we would give all countries in the region an incentive to start doing just that.

Third, a phased redeployment would enhance security for U.S. forces. While all prudent military planners must plan for the worst, it is likely that the climate for a withdrawal will be relatively secure, especially since all Iraqi parties want the United States to redeploy either immediately or relatively soon and would have no incentive to create conditions that would hinder a withdrawal.

Fourth, it would let the Iraqis know we plan to live up to the SOFA which says that all troops must be out of Iraqi cities and towns by June 30th, 2009 and out of Iraq completely by the end of 2011. Slow walking the withdrawal would reinforce the perception among many Iraqis that we are occupiers and have no intent to abide by the SOFA.

In the final analysis, it is necessary now more than ever for the United States to commit to a responsible, phased withdrawal. The recently signed Status of Forces and Strategic Framework Agreements have created a broad Iraqi political consensus in favor of a U.S. commitment to withdraw its forces from the country. The United States should accept this opportunity offered by the Iraqis to take control of their own security by beginning a responsible phased withdrawal of U.S. combat troops from Iraq. Such a withdrawal gives the United States the best opportunity to achieve its goals in Iraq and advance overall U.S. security interests in the greater Middle East. ■

#### ENDNOTES

- [1] Martha Raddatz, "Obama's Iraq Withdrawal Plan May Prove Difficult," ABC News, July 11, 2008, available at <http://abcnews.go.com/Politics/Vote2008/Story?id=5351864&page=1>. [2] Phillip Carter, "Exit Stage Right," Slate, May 23, 2007, available at [http://www.slate.com/id/2166853/pagnum/all/#page\\_start](http://www.slate.com/id/2166853/pagnum/all/#page_start) [3] Coalition Provision Authority Statement, March 9, 2004, available at [http://www.cpairaq.org/ranscripts/20040308\\_Mar9\\_KimmitSensor.html](http://www.cpairaq.org/ranscripts/20040308_Mar9_KimmitSensor.html). [4] Coalition Provision Authority Statement, March 9, 2004, available at [http://www.cpairaq.org/transcripts/20040308\\_Mar9\\_KimmitSensor.html](http://www.cpairaq.org/transcripts/20040308_Mar9_KimmitSensor.html).

# Lessons from Iraq and Afghanistan

An Interview with Dr. John Nagl



Dr. John Nagl. Photo: CNAS.

**J**ohn Nagl is a retired officer in the United States Army. His last assignment was as Commanding Officer of 1st Battalion, 34th Armor at Fort Riley, Kansas. He led a tank platoon in Operation Desert Storm and served as the operations officer of a tank battalion task force in Operation Iraqi Freedom. A West Point graduate and Rhodes Scholar, Nagl earned his doctorate from Oxford University, taught at West Point, and served as a Military Assistant to the Deputy Secretary of Defense. Currently, Nagl is President of the Center for a New American Security, Visiting Professor at the Kings College of London, an Adjunct Professor in Georgetown University and a life member of the Council on Foreign Relations and the Veterans of Foreign Wars. He is the author of *Learning to Eat Soup with a Knife: Counterinsurgency Lessons from Malaya and Vietnam* and helped author the US Army's counterinsurgency field manual (FM 3-24).

**JIPO:** You have previously said that the key to military adaptation is consensus among leaders and that change is in the long term interests of the organization. What is the state of that consensus right now in political and military circles, and do you find there is still significant resistance there to organizational innovation, particularly in addressing the counter-insurgency in Iraq and Afghanistan?

**Nagl:** There has been an enormous change in the U.S. military, particularly in the Army and the Marine Corps, which has adapted dramatically and impressively to the demands of the war in Iraq. The interesting question at this point, is whether this has gone far enough. That's the debate that is raging right now.

**JIPO:** To what degree do you believe that the U.S. military has evolved to address the unique situation in Iraq?

**Nagl:** We have changed dramatically: our doctrine, practices, operational

view of what counter-insurgency is and what the objectives are that we are trying to accomplish. But we haven't changed our organizations or education as dramatically as perhaps we should.

**JIPO:** How should we move forward to adapt organization and education in our military?

**Nagl:** I have advocated for the creation of an Advisory Corps. Currently, we have made ad hoc adaptations to the wars in Iraq and Afghanistan by creating small – approximately 12-person – teams, embedded inside Iraqi and Afghan security forces. Those teams are currently organized, trained, deployed and employed on an ad hoc basis. We have so far decided not to create standing organizations to do this mission. It is my recommendation that we create standing forces in order to perform this critical mission of building host-nation capacity.

**JIPO:** What are the key organizational innovations that are currently applied in Afghanistan e.g. Human Terrain Teams (HTT)?

**Nagl:** HTT is one of the key organization adaptations that we have made. They provide advice on the key terrain in a counter-insurgency campaign, which is not physical terrain but human terrain. They are a powerful tool in the commander's kitbag that allows the commander to be more effective in counter-insurgency. They are significant, but not core to the mission of the military force themselves; they are a good add-on. The thing we have to think about is whether there is a long-term change in the nature of conflict. What General Rupert Smith calls, "Wars amongst the peoples" are likely to be the kinds of wars we are going to fight in the 21<sup>st</sup> century. Perhaps we need to be educating our officers and non-commissioned officers differently. Perhaps we need ► 22

21 ◀ to train anthropologists *in* the military, rather than just add anthropologists *to* the military.

*JIPO: Should the core focus of the military remain fighting large conventional conflicts or instead be creating counter-insurgency doctrine, manual and training?*

**Nagl:** This is a primary question that the U.S. Army has to answer in the Quarterly Defense Review later this year. Have we adapted enough? What is the future of conflict? To what extent do we need to hedge against conventional threats and build the capability we need for the wars in Iraq and Afghanistan. These are basic but very important questions. There is no consensus on the answers.

*JIPO: Is there a conflict of interest in humanitarian workers working together with the military?*

**Nagl:** I personally don't think so but there are those that do. I am obviously an advocate of such cooperation. For example, I helped write in to the Counter-Insurgency Field Manual a section that suggests strongly that economic development is the key to success in these kinds of campaign.

*JIPO: Is the humanitarian community as willing to work with the military in this regard?*

**Nagl:** I believe that there are elements of the humanitarian community that are willing to do so and play an important role in minimizing the suffering in these warzones. But of course, not all humanitarian organizations agree.

*JIPO: Is there a conflict of interest in incorporating anthropologists within the military?*

**Nagl:** No. The American Association of Anthropologists is concerned that anthropologists should not be involved in military operations. It is my belief that in these incredibly important issues, such as life and death for large numbers of people, we want the best informed and best educated people on the planet working these problems to minimize the suffering and to accomplish

political stability at the lowest possible cost in lives and treasure. I personally believe that anthropologists have an important skill set that can be brought to bear on these problems. I believe that it is well within their remit to do so. But again, there are people that disagree with me.

*JIPO: If successful counter-insurgency includes relief and developmental assistance, will the military become, in effect "armed humanitarians"?*

**Nagl:** The U.S. military has been conducting stability operations for over 200 years. During the Cold War, there was an undue focus, I think, on the conventional military side of operations. But in fact, we have a long history in providing stability in post-conflict situations, and arguably reconstruction, here in this country as well.

*JIPO: What role do you see for the private sector in development and humanitarian assistance in Afghanistan? How can the private sector better support military operations in Iraq and Afghanistan?*

**Nagl:** Afghanistan is the fifth-poorest country in the world. For political stability to happen there, people have to have some form of economic opportunity, the ability to feed themselves and their families and the potential to build a better life. If they don't have that hope, they are much more easily convinced or coerced by the Taliban or other disruptive, in some cases, terrorist organizations to do things that are not in the long term interest of the country of Afghanistan. Anything humanitarian organizations can do to help the people of Afghanistan, not only to minimize human suffering, but that also helps build long-term stability, that is essential to creating a country that could stand on its own.

*JIPO: What roles do you think contractors should play in supporting the U.S. military in Iraq and Afghanistan?*

**Nagl:** There are contractors who provide food and fuel to American troops in Iraq and Afghanistan. They play an incredibly important role that we have chosen to outsource to them.

I think that is helpful, useful and likely to continue as long as we have an all volunteer force. I work with contractors in Al-Anbar who built police stations and troop barracks that are absolutely essential for Iraqi security forces. There are many roles for contractors to play, many of them extremely helpful in the stability operations and counter-insurgency campaigns we are fighting now.

*JIPO: Regarding the nature of the insurgency in Afghanistan, what is the civilian support base in Afghanistan? Is it derived from coercion or do the Taliban have a real support base?*

**Nagl:** The Taliban is running about a 7 percent approval rating in Afghanistan right now. A single-digit approval rate! The people I have spoken to in Afghanistan have been driven to the Taliban, not by any admiration, but by a lack of alternatives from the government, and also by fear and coercion.

*JIPO: For the Taliban to be defeated do they have to be killed or can they be co-opted into a national government?*

**Nagl:** The Taliban is a diverse group. Broadly speaking, I distinguish it as "Big T" Taliban versus "Small t" Taliban. The "Big-T" Taliban is driven by ideology; they are fanatical, unwilling to compromise, cannot be negotiated with and must therefore be captured or killed. The "Small t" Taliban can be negotiated with – and probably needs to be negotiated with – similar to the insurgents in the Sunni Awakening in Al-Anbar. So, there are many shades of gray in counter-insurgency and with the Taliban certainly.

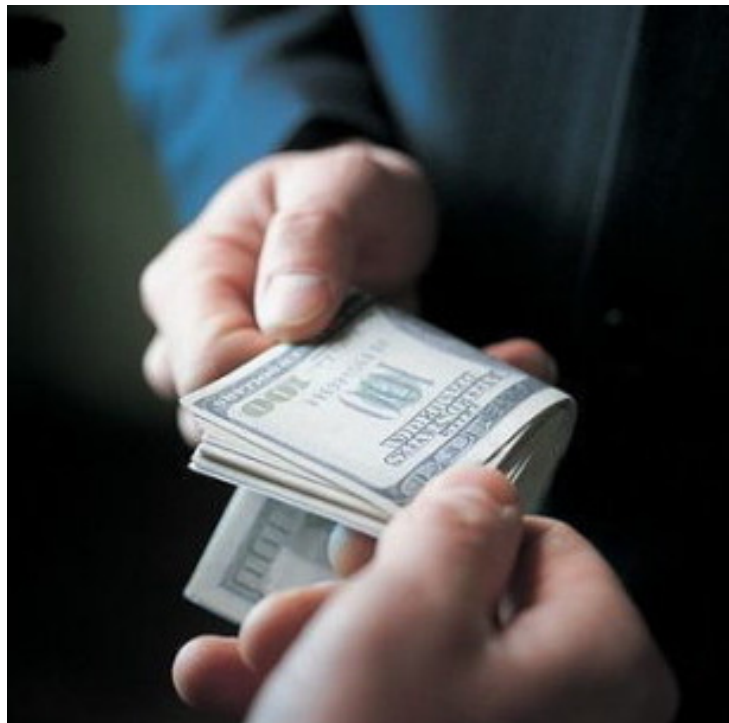
*JIPO: Do you see the troop increases around 30-35,000 to Afghanistan enough to establish security for the population centers?*

**Nagl:** The Counter-Insurgency Field Manual says that you need 20 to 25 counter-insurgents for every 1,000 in the population. That's a total of 600,000 security forces required for Afghanistan. There are currently fewer than 200,000, counting all the Afghan and foreign nationals. An additional 30,000 American troops would be a very small down ▶ 30

Todd Alexander and Matthew Weinbaum

# The Risks of Greasing the Wheel

## Effects of Enhanced FCPA Enforcement



*Consideration for your troubles. Photo: Stock.*

**T**HROUGHOUT the 1990s and early 2000s, Siemens A.G., the German engineering conglomerate, appears to have used bribery as a business tool to secure government contracts throughout the world. Whether it was deals to build power plants in Israel, lay rail lines in Venezuela, or supply hospital equipment in Russia, Siemens won contracts through multi-million dollar payouts to government officials, much to the consternation of competitors and citizens of these countries who overpaid for goods and services.

On December 15, 2008, however, Siemens' dubious business practices came to an abrupt end as the company and three of its subsidiaries admitted to U.S. Foreign Corrupt Practices Act (FCPA) violations. Under the FCPA, it is illegal for any U.S. person, issuer or domestic concern, or any foreign person while in the U.S., to bribe foreign government officials in order to obtain or retain any business advantage. The law also requires companies with securities registered under the

Securities Exchange Act of 1934 to keep accurate records and maintain internal controls so that company books correctly reflect all transactions.

As part of its punishment, Siemens agreed to pay an unprecedented \$800 million to American authorities to settle claims by the United States Securities and Exchange Commission (SEC) and Department of Justice. In sum, Siemens will pay roughly \$1.6 billion in fines and fees to Germany and the United States, and more than \$1 billion for an internal investigation in which lawyers and auditors racked up a staggering 1.5 million billable hours.

To be certain, Siemens use of bribery and the resulting U.S. government fines are atypical. However, it is increasingly common for the SEC and Department of Justice to prosecute business entities and individuals for violating the FCPA. From 1978 to 2000, the SEC and Department of Justice averaged about three FCPA-related prosecutions per year. Since then, FCPA enforcement has tight-

ened dramatically. According to a Shearman & Sterling LLP study, from 2001 to 2006, the SEC alone averaged more than four formal proceedings per year and, in 2007, the SEC brought 16 new proceedings.

Additionally, penalties for FCPA violations can be steep. For instance, under the anti-bribery provisions of the FCPA, officers, directors, stockholders, employees and agents who violate the Act are subject to criminal fines of up to \$100,000 per violation and five years in jail, and companies are subject to criminal fines of up to \$2 million. Further, these penalties may be even higher under the Alternative Fines Act. This is because there is discretion to levy fines that are as much as twice the benefit the defendant sought in making the corrupt payment.

In recent years, extraordinary penalties have been handed down under the FCPA in settlements with companies as diverse as Halliburton/KBR (\$579 million in 2009), Baker Hughes (\$44 million in 2007), ► 26



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A young child with dark skin is walking in a dry, dusty environment. The child is wearing a bright yellow headscarf with a red and orange floral pattern. They are also wearing a light-colored, patterned dress with a floral design. The child is looking slightly to the left. In the background, there are some white plastic bags on the ground.

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**23** ◀ Chevron (\$30 million in 2007), Titan Corporation (\$28 million in 2005), subsidiaries of Vetco International (\$26 million in 2007) and York International (\$22 million in 2007).

A myriad other actions can be taken against businesses accused of FCPA violations. A mere indictment can lead to a suspension of the right to do business with the U.S. government. Further, the SEC, the Commodity Futures Trading Commission and the Overseas Private Investment Corporation can all take separate action against a company for violating the FCPA. Additionally, if found guilty of conduct that violates the FCPA, private causes of action might be available under the Racketeer Influence and Corrupt Organizations Act (RICO), or under other federal or state laws, and a company may be ineligible to receive export licenses.

On top of larger and more frequent penalties, FCPA enforcement has become broader in scope. Companies and individuals who likely never heard of the FCPA are now being prosecuted under the Act. For instance, Christian Sapsizian, a French citizen, pled guilty to FCPA violations in 2007 for bribing Costa Rican officials in order to obtain a mobile telephone contract on behalf of Alcatel, a French communications company. In other words, a French citizen, working for a French company, was prosecuted in the U.S. for bribing a Costa Rican official. The jurisdictional hook the U.S. court used was that during the time of the alleged bribes (2000 - 2004), Alcatel's American Depository Receipts were traded on the NYSE and the actual payments were made by wire from Europe to Costa Rica through Miami.

### **Guard Against FCPA Violations.**

Companies that seek contracts with

foreign governments must be particularly careful about running afoul of the FCPA. The major risk which these companies face, however, may not be that their American employees will violate the Act, but that foreign consultants and agents they hire will. To ensure FCPA compliance, the U.S. State Department recommends a strategy focused on education, detection and deterrence.

### **Educate Employees about FCPA.**

An effective FCPA compliance program will educate employees about what the FCPA is, the penalties associated with FCPA violations, and how to avoid such violations in the future. To complement such a program, companies should do the following:

#### *Draft an Internal FCPA Code of Conduct.*

Companies should draft a clear and concise corporate code of conduct for employees to follow in order to avoid FCPA violations. This code should be a written set of legal and ethical guidelines for employees and agents to abide by which is translated into the languages of countries where the company operates.

#### *Provide Anticorruption Training.*

A compliance program's success depends on encouraging FCPA training at every corporate level, with added training in high-risk departments. Ideally, a senior business officer should lead FCPA training seminars in order to convey the importance the organization places on FCPA compliance. If senior officials do not take compliance seriously, neither will employees. This was a problem at Siemens, which created a powerless internal compliance system that looked good on paper, but did nothing to stop the company's

corrupt practices. Internal compliance programs must have teeth. An effective program will educate employees about the FCPA and anticorruption laws in other countries where the company operates.

### **Detect Violations.**

If an FCPA violation occurs, regulators are likely to consider a company's efforts to deter the violation when deciding whether to indict the company or go after corporate officials individually. As a result, companies should be proactive in addressing FCPA violations. Mechanisms should be put in place to detect whether FCPA violations already exist, and in what company departments FCPA violations could arise in the future. Corporate compliance programs should establish standard operating procedures to make certain the company builds business relationships only with trustworthy agents and establishes internal accounting controls governing access to money, travel and other expenses. Such procedures include:

#### *Flagging Dubious Transactions.*

Companies should "red flag" transactions in which FCPA violations are most likely to occur. In particular:

- (i) government contracts;
- (ii) political and charitable contributions outside of the United States;
- (iii) payments to offshore holding companies;
- (iv) payments to anonymous accounts;
- (v) payments to accounts with potentially fictitious names;
- (vi) transactions that lack standard invoices;
- (vii) transactions that grant unusually large amounts of credit to customers; and
- (viii) transactions that utilize checks drawn "to cash". ▶ 30

# The Way Ahead for AFRICOM

## The Importance of a New Approach for African Peacekeeping



Follow the leader. Photo: U.S.M.C.

**A**FRICA continues to be a recipient of major peacekeeping operations. In their current operational forms, peacekeeping missions are too often ad-hoc, reactive and tend to arrive too late, when violence has destroyed entire communities and brought countries to near collapse. A new approach to peacekeeping requires a shift from its current form. Africa needs comprehensive engagement to deal with the root causes of the conflicts and the humanitarian consequences of violence.

Since the February 2007 announcement of the creation of AFRICOM, there have been numerous reports on the growing African resistance to the new U.S. military command and control initiatives. AFRICOM and other new international efforts in Africa would garner less criticism and more support if they embrace six principles for comprehensive engagement.

First, international efforts like AFRICOM should embrace and

support the concept of “African solutions to African problems.” Following the transformation of the Organisation of African Unity into the African Union, African leaders committed themselves to the concept of African solutions to African problems. Skeptics and critics wonder how AFRICOM will meet African needs in a way that will engage in genuine partnerships with Africa to minimize violent conflicts.

In an effort to provide concrete meaning to the concept of African solutions to African problems, African Union member states undertook the initial steps to set up the multinational African armed forces with the spirit of self-determination. The standby force should be well trained, mobile, easy and ready to deploy to intervene in situations of armed conflicts or threats to mass atrocities such as genocide on the continent. It is intended to be a continental African military force, with both a civilian and police component.

G8 Leaders are calling for the development of a Joint Africa/G8 plan to mobilize technical and financial assistance so that by 2010, African partners will be able to engage more effectively in peace support operations on the African continent. Against this background, several questions have been raised around the real intentions of AFRICOM.

African countries do want partnerships with the international community to address terrorism, to enhance their human resource capacities and to acquire equipment to combat the drug menace as Africa is increasingly used as a transit route for shipping drugs to Europe and the United States. Africa needs capacity to patrol its coastal waters and keep away illegal fishing activities that deprive coastal fishing communities of sustainable livelihoods. American expertise in training African Peacekeepers as well as resourcing them logistically would be welcome. AFRICOM would do best to coordinate with the G8 and the Joint Africa Forces in a collective security approach. ► 28

27 ◀ Second, AFRICOM should begin a broader dialogue with African people and civil society rather than limit engagement with only the state leaders of Africa. Cooperation between the United States and Africa to address the root causes of terrorism and violence should not only include building African state security capacities. Effective strategies for peacekeeping interventions must foster a sense of ownership among local populations.

Good governance requires a combination of a citizen-oriented state held to account and in partnership with an active civil society. International

sentiment among African civil society must be addressed first and foremost in the planning of programs like AFRICOM. The lack of comprehensive conversation with both African states and African civil society has led to vigorous opposition to AFRICOM within Africa.

Third, peacekeeping operations require a civilian, developmental approach that recognizes the complex links between poverty, humiliation, despair and violence. Underlying and unresolved social, economic and political issues simmering in many countries call for concerted efforts to prevent an escalation of violence.

In a world of increasing threats to security where the United States seeks to combat extensive disorder and restore stability, soft but strategic diplomatic efforts need to be exercised. Diplomacy can create synergies with the African Union standby force and civil society to help provide maximum efficiency and effectiveness of humanitarian and developmental peacekeeping operations in Africa.

Fourth, AFRICOM should commit to early, preventive action. In West Africa there is enormous criticism of the delay in taking timely preventive actions in the Mano Union River Basin sub-regional crisis until every

## Good governance requires a combination of a citizen-oriented state held to account and in partnership with an active civil society.

efforts like AFRICOM should engage and consult with African civil society in regards to U.S. interests in eradicating poverty in Africa, supporting good governance and democratic practices will enhance peace and security in Africa.

Civil society organizations play a range of roles in conflict prevention, stabilization, reconstruction, reintegration of armed groups and post-war transitional justice. Preventing violent conflict in Africa requires more deliberate collaboration between civil society organizations and the peacekeeping community. Greater involvement of civil society also requires support of their existing roles and ongoing capacity building. Such collaboration should define a clear sense of how to build and keep the peace, rather than restoring peace through military operations.

Consulting with civil society also offers other benefits. Anti-American

Peace grows from practices that support sustainable human development. The complexity of protracted conflicts in Africa requires comprehensive approaches to address the root causes of violence.

Therefore an approach to peacekeeping means not just the cessation of hostilities through peacekeeping operations, but the strengthening and reassertion of political, economic and social structures that enable societies to eliminate exploitation, corruption and root causes of insecurity. Peacekeeping operations require the mechanisms and commitment to contribute to building structures that will help to transform and prevent conflicts from occurring or recurring. Peacekeeping in the emerging future must address issues of poverty, rebuilding the state, ensuring mechanisms are developed to rein in corruption and minimize environmental degradation.

structure had crumbled. The United States was silent on the Mano River Basin Civil War until intelligence had proven the link between Al-Qaida networks purchasing blood diamonds smuggled into Liberia from Sierra Leone.

The U.N. Charter related to conflict intervention within the framework of articles 33, 51 and 52 stated that intra and interstate disputes of a regional nature should be settled by regional organizations. It also recognized that some regional organizations, such as the AU have relatively weaker political power and logistics that only allow them to handle intra and interstate conflicts of low intensity. The scale of the Liberian and Sierra Leone civil wars required and justified the earlier interventions of the United Nations and the United States.

With no resolute international commitment, it was instead, the Economic Community of ▶ 29

28 ◀ West African States Monitoring Group (ECOMOG) which deployed approximately 2,000 ECOMOG armed forces, mandated to protect the civil populace, in order to prevent further destruction and end the civil war. ECOMOG's intervention in Liberia was the first full-scale attempt by a sub-regional organization in Africa to stem conflict largely through the efforts of regional troops. Beyond ending a further deterioration of the wars, ECOMOG could not ensure a return to sustainable peace.

Could AFRICOM support and strengthen such preventive peace enforcement initiatives in Africa if they became necessary? Concretely, the answer to such questions could change perceptions in Africa about AFRICOM.

Fifth, AFRICOM should link peacekeeping operations with post-war planning. In the past, the termination of peacekeeping missions signaled donor support withdrawal once the check list of post-conflict reconstruction benchmarks such as organizing elections were met, most often, attention swung elsewhere without linking external support to national development planning.

Peacekeeping missions in the future should not only actively help to stop civil wars, but also support conflict-sensitive strategic development post-war planning. This includes developing the capacities of national actors to be able to take ownership of governance and development after the withdrawal of peacekeeping missions. The African Union Standby Force requires this post-war capacity to foster the restoration of peace and stability on the continent.

Lastly, AFRICOM should acknowledge unintended consequences of



*Making some new friends in Africa. Photo: U.S.M.C.*

many peacekeeping operations. Peacekeeping operations can further exacerbate social problems making post-conflict reconstruction and reconciliation efforts more difficult. Well-intentioned efforts may do great harm by furthering the polarization of local populations by aiding or protecting one ethnic group and not another. More research on the unintended consequences of the peacekeeping operations such as in Sierra Leone, Liberia and the Democratic Republic of the Congo is needed to document these effects.

It is essential that peacekeepers do not perpetuate the sexual violation of women and ensure zero tolerance for such acts by warring factions. Peacekeeping missions should include both civilian and military personnel working together with a monitoring system to check sexual violations, illegal trade in minerals and actions by peacekeepers that may be interpreted to compromise their neutrality. All personnel recruited for peacekeeping operations must be adequately trained to understand the possible unintended consequences of peacekeeping and then commit to avoid them.

International efforts in Africa such as AFRICOM should strive to turn the

tide of public perception from perceived self-interest to one in which Africa and international partners, like the United States, have mutual interests and benefits. It is no secret in Africa that the United States aims to slow down the accelerating rate of influence by China and other countries in Africa with AFRICOM. It is also widely recognized that Americans are on the continent to combat militant extremists and secure their interests in African resources.

Africa's international partners have an opportunity to turn the corner on the colonial past based on resource extraction. In the future, Africa needs partnerships for building global security.

Rather than having industrial nations compete on setting up military command structures focused on Africa, the commitment to build durable peace on the African continent should put the emphasis on multilateralism and global cooperation. Only a joint international effort – including civil society - will eliminate the root causes of conflicts and restore the dignity of every human person. Peace and security require a collective approach that reflects global interdependence. ■

# Risks of Greasing the Wheel

26 ◀ Companies should always conduct heightened due diligence when the circumstances above exist to ensure that no FCPA violations occurred. When conducting this due diligence, companies should look for transaction patterns which have no clear economic or lawful purpose.

## *Conducting Extensive Background Checks on all Employees and Agents.*

Prior to hiring individuals to work outside of the United States, companies should also conduct background checks that examine an individual's family and business ties with government officials in the country they are stationed. If the country is one where corruption is particularly rife, the background check should be more in-depth. Transparency International's Corruption Perceptions Index offers a helpful guide in determining which countries are particularly corrupt.

## **Deter Violations.**

An effective FCPA compliance program must threaten punishment for individuals who are in a position to violate the FCPA, and actually punish individuals if FCPA violations are uncovered. To accomplish this, companies should do the following:

### *Limit Liability Through Contractual Arrangements.*

Companies should insert provisions into employment contracts that highlight the FCPA's importance when hiring agents and employees who may encounter FCPA-related situations. A properly drafted provision will state that the individual is aware of the FCPA and will abide by the Act during the term of the professional relationship.

### *Establish Whistleblower Protections.*

An effective FCPA compliance program will include a company helpline, where employees and agents can anonymously report potential FCPA violations, without fear of retaliation.

### *Implement Disciplinary Mechanisms for Offenders.*

When an FCPA violation is uncovered, companies should take decisive disciplinary action ranging from minor sanctions to termination of employment in order to prevent recurrence of this activity in the future.

Enhanced FCPA enforcement is here to stay. With penalties for noncompliance on the rise, companies should take precautionary measures to ensure they are not paying the next record fine under the FCPA. ■

## Lessons from Iraq and Afghanistan



Photo: Sgt. Aimee Millham/U.S. Army

22 ◀ payment on this. This is why the long-term answer to security in Afghanistan has to be an Afghan answer provided by Afghan troops.

**JIPO:** *Do you think this level of commitment is a signal – or can it be construed by the Taliban as a signal – that the U.S. is not really willing to go the distance?*

**Nagl:** We don't have enough Army to win the wars we are currently fighting. We are not expanding the Army rapidly enough in the wars in Iraq and Afghanistan. We simply do not have enough forces available. So 30,000 is simply all the forces we can afford to send to Afghanistan right now. We need more advisors to build a bigger Afghan army rapidly so that the Afghan forces can provide security in Afghanistan

**JIPO:** *How long do you think it'll take to build a bigger Afghanistan army?*

**Nagl:** First we have to decide that's what we are going to do and then we have to do it. Doing it will require more American advisors. We are looking at a five to 10-year process.

**JIPO:** *Can you describe what "winning" is in Afghanistan, and what that entails in terms of military and political will?*

**Nagl:** Essentially what we are trying to accomplish is preventing a safe haven for terrorists in Afghanistan and instability from spreading further to Pakistan. In order to accomplish those two objectives, which I believe are the core U.S. objectives in Afghanistan; we have to build an Afghan state which can provide its own security. To do that, we have to build a bigger Afghan army and a bigger Afghan police force. That I believe is the primary focus of the American operations in Afghanistan. ■

# Keeping NGOs Safe and Sound

## Harnessing the Power of Security Through Information



Aid organizations provide critical assistance. It is just as critical to keep them safe. Photo: Justin Weaver/U.S.A.F.

**R**EMARKABLE as it may seem, today many relief agencies in the world's hot spots continue to forgo security due to philosophical concerns, cost or the out-dated belief that their humanitarian status will keep them from harm. This view remains strong in spite of recent efforts by the U.N., USAID and others to devise ways that relief organizations can provide for their own security and even mandate those measures in the face of increasing violence.

According to Benjamin Perrin, humanitarian workers are facing dangers never before experienced from insurgency-based conflicts, civil wars, terrorism and the chaos of failing and failed states.[1] Perrin documents the reasons behind the increased security risks - lack of local knowledge and "situational awareness," inexperienced personnel, the growing perception that humanitarian agencies are not neutral and affiliated with foreign military forces or governments. Other threats include direct targeting of relief workers to

destabilize civilian society, lack of respect for international humanitarian law and criminal elements kidnapping and stealing supplies for economic gain. He concludes that the use of private security companies by relief agencies needs serious discussion among all entities involved - governments, military, international development and non-government agencies.

In places like Afghanistan and Pakistan, hard won progress in post-conflict reconstruction and re-establishment of vital social, economic and political systems is in danger of being swept away by resurgent violence and deliberate destabilizing efforts. The U.N., in a new funding appeal, reported that in 2007, more than 2,100 civilians were killed in Afghanistan, a 40 percent increase from the prior year.

The rising levels of violence have had a predictable effect on relief operations around the world. Some NGOs are curtailing operations in danger zones. In Afghanistan, for example, 40 percent of the country is now off-

limits to aid workers. Others are withdrawing completely. Recruiting people for humanitarian projects is becoming more difficult. In short, those perpetrating the violence are winning and thus becoming even more emboldened and aggressive.

The aversion of non-government and relief agencies to security precautions when working in dangerous places like Iraq and Afghanistan is evolving into a grudging acceptance that is reminiscent of Victorian attitudes toward sin. They don't object to the activity itself, just to its visibility.

A growing number of relief agencies and NGOs are adapting security procedures on their own, sharing ideas and best practices among themselves and with further support from a variety of sources - government, military and private security companies. While this patchwork approach is better than nothing, it leaves much to be desired in terms of comprehensive and effective security.

Historically relief organiza- ► 32

31 ◀ tions have relied on the local communities in which they work for security, but as insurgents threaten the local populace and the patterns of violence become more complex and systematic, that approach is less and less effective.

Those organizations that provide the majority of funding for relief efforts are also working toward a solution. The U.N., for example, introduced Saving Lives Together, a best practices framework for security collaboration that was designed to promote security for NGOs without compromising neutrality.

More specifically, the U.N. further

results. Such an approach to security in dangerous locales requires significant adaptation of existing security materials, training and application.

Assuming that relief organizations will always be hard-pressed to spend the money that private organizations expend on comprehensive security, providers of security services need to be creative in meeting the needs of these at times reluctant clients. It is a challenge but one that comes with its own rewards, not the least of which is enriching the expertise and skill of the security provider.

The key to instructing non-security personnel in security is simple but

that is the reservoir from which the relevant information must be extracted, synthesized and presented.

Mark Twain famously described using exactly the right word instead of almost the right word as the difference between lightning and a lightning bug. The same is true for information. Facts culled from established sources – government and military reports, the news media and so on – go just so far in providing true understanding of what is going on. Getting from the bug to the bolt requires “ground truth” applied to that information. The term “ground truth” is derived from remote sensing technologies where information gathered on

## “ The aversion of NGOs to security precautions is evolving into a grudging acceptance. ”

created a security policy for all U.N. field operations called Minimum Operating Security Standards to establish more precise security policies and procedures for performing security threat assessments, security plans, training and in-the-field communications.

Those measures, based on participation largely by non-security personnel, while marginally effective and certainly better than no security, are struggling to keep pace with the escalating levels of violence now experienced in places like Afghanistan and Pakistan. In too many instances, those situations require the involvement of trained and experienced security personnel who can apply proven protocols and resources, such as crisis response experts, as needed.

Many NGOs, loath to spend cash or precious personnel resources on security, assign existing personnel the additional responsibility for security: an approach with decidedly mixed

rarely done. Adapt everything to their level of understanding, beginning with the terminology: “personnel” are “people”; “intelligence” is “information.” In training relief workers, this is imperative because the people trained initially go on to train their colleagues. Everything from information to procedures and plans must be kept simple and pragmatic.

An excess of information is the curse of the information age. Stripping away all but the essential information required for the task at hand is how you convert masses of data and raw information into what is described as “actionable information,” material that the typical relief worker can digest and immediately apply to his or her situation.

The typical security firm produces information for clients in the established formats of threat assessments, security plans, special reports and summaries and alerts. In supplying information to relief organizations,

location is used to verify what, for example, a satellite image reveals. Ground truth requires skilled, local people trained in information gathering, processing and reporting. The training is what differentiates them from the local rumormongers who obscure rather than reveal true information. The inherent “situational awareness” of local nationals combined with security training produce superior information.

Tactical reports produced by private security companies are usually too detailed for effective use by relief organizations. So reports, typically eight or more pages in length, are reduced to one or two page summaries. Relief workers are also concerned with area-specific information rather than regional or country-wide. Their concern is safely getting from point A to point B, not the broader view. ■

### ENDNOTES

Perrin, Benjamin. 2008. Not for the Faint-Hearted. *Journal of International Peace Operations* 4, no. 2 (September-October):13.



# Madame Secretary

## Hillary Rodham Clinton Becomes America's Top Diplomat



British Foreign Secretary David Miliband and U.S. Secretary of State Hillary Clinton. Photo: Michael Gross/U.S. Department of State.

ON January 21st, Hillary Rodham Clinton was sworn in as the nation's 67th Secretary of State, after the Senate approved her nomination by a vote of 94-2. The Senate Foreign Relations Committee also voted 16-1 in favor of her nomination. It was a momentous occasion for America as she set the tone of President Obama's administration on foreign policy. "The three legs to the stool of American foreign policy: defense, diplomacy and development – and Department of State will be responsible for two of those three legs," claimed Clinton.

In her testimony before the Foreign Relations Committee, remarks to the employees of the State Department and address to the U.S. Agency for International Development's (USAID) employees, Clinton placed particular emphasis on smart power, robust diplomacy and effective development to advance America's national security and interests. She has a formidable task and long road ahead of her to improve America's image abroad, repair and maintain foreign

relations while tackling ongoing challenges such as balancing the relationship between the State Department contractors as well as the role of contractors with regards to the drawdown of troops in Iraq.

Clinton was questioned about her stance on military contractors at a Town Hall meeting with State Department employees a few weeks ago. Specifically, she was asked if she would support banning private military contracts altogether. Her diplomatic reply was, "Whether we can go all the way to banning under current circumstances seems unlikely, but we ought to be engaged in a very careful review of where they should and shouldn't be used, and under what circumstances." The statement revealed Clinton's softening stance toward contractors. Less than a year ago, during her presidential campaign, Clinton promised to ban the use of private security contractors by the State Department in Iraq and Afghanistan by co-sponsoring the Stop Outsourcing Security Act (S. 2398). However, in her confirmation

hearing, she vaguely indicated the necessity and importance of contractors to support the work of Department of Defense (DoD) and Department of State in the near-term.

Given the significant shortage of resources in many other government agencies, Secretary Clinton's re-posturing on the issue is both rational and pragmatic. She acknowledge numerous occasions on which the issue is highly sensitive and complex, but also vital to further America's security, interests and values. In her Secretary of State speech, her first priority in the midst of global challenges is to, "keep our people, our nation and our allies secure." Neither the State Department's Bureau of Diplomatic Security nor DoD currently has the capacity to adequately provide security for U.S. diplomats and government personnel in conflict areas. The job will have to be outsourced to private contractors to counter the potentially very dangerous deficiency of security requirements.

33 ◀ As the U.S. sequences the withdrawal of troops from Iraq, the military capacity to provide security will rapidly diminish. The burden of ensuring that the civilian corps remaining in the country is provided with the necessary security then, falls to the State Department. Both the drawdown of troops and the fortification of security for civilian personnel have to be maneuvered delicately and must be done in a safe and effective manner.

The lives of American servicemen and women should not be solely determined by a job's cost. The question of quality must be seriously considered in order to utilize the "smart power" that Clinton has been stressing. The solution is not less contractors, but more oversight, transparency, accountability and ethical standards governing their work. Above all, it will benefit everyone involved to keep in mind that the contractors hired to work alongside the Foreign Service and Civil Service are similarly advancing the national interest of the nation.



Hopefully waving goodbye to political considerations. Photo: U.S. Department of State.

Issues surrounding the use of private security contractors have only recently become contentious, especially in light of 2007's Nisoor Square incident. However, the spate of negative reports on the industry caused by unfortunate and rare events such as this one served to politicize the use of PSCs and channel the topic into ill-advised campaign promises. No responsibility has been placed on any of the contracting organizations or

agencies, only on the contractors. As such, the industry has taken the blow for government agencies.

Hopefully, in her new role as Secretary of State, Clinton will leave the politics behind and focus on the wellbeing of government officials and embassy staff, those in Iraq even after the majority of U.S. troops leave, Afghanistan and worldwide. ■



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# Potentially Positive

## A Cautious Outlook for Guinea's New Military Junta



Lansana Conté: What's next for Guinea? Photo: Embassy of Guinea.

THE Republic of Guinea's second president, Lansana Conté, died on December 22, 2008. He had been in power 24 years, and had run a dictatorial and corrupt regime. He had been in declining health for at least five years. Two days after his death, a group of midlevel military officers seized power in a coup, and declared the abolition of the constitution and the parliament. If the constitution had been followed, the president of the National Assembly would have become acting president for 60 days, after which an election would have chosen a new head of state. The junta's official title is "National Council for Democracy and Development."

The leader and chief spokesman for the military junta is Capt. Moussa Dadis Camara, the officer in charge of the army's fuel supply. On January 5, 2009, Camara announced that elections for a new president and parliament would be held before the end of 2009, and that his military government was transitional. He appointed a civilian prime minister

and a government made up of 21 civilians and six military officers. In several interviews, he indicated that he was emulating the President of Mali, Amadou Amani Toure, who had overthrown a corrupt and repressive military dictator in 1991, when he was a colonel in the army, and organized a successful one-year democratic transition leading to the election of a civilian regime. Toure successfully ran for President as a civilian 10 years later, after the first elected President had completed two terms.

According to press reports, the junta's action was welcomed by the general population of Guinea. The people liked the choices of civilian ministers who were new faces with honest reputations. They also liked the declarations by Capt. Camara that there would be full transparency in the sale of minerals and the handling of incoming revenues. He also promised to pursue those who had "stolen state assets." Nevertheless, the African Union denounced the military coup and demanded that the junta return the country to "constitutional

rule." The government of Guinea, along with the government of Mauritania, which had a military coup in August, 2008, have both been suspended from the African Union pending the return of "constitutional order".

Why did the group of mid-level officers decide to seize power, and why was their action popular?

First, they believed that a new election, as directed by the constitution, would be run by the same old group of corrupt politicians installed by the deceased president. They would have been supported by the same old group of corrupt military generals who had kept the late president in power. Thus, there needed to be a clean sweep and a new beginning. The junta has swept away both the ruling political class and the ruling military hierarchy, all of the previous generation.

Secondly, under President Conté, the military was a privileged group. Conté was chief of staff of the army ► 36



Hoping the enthusiasm will last. Photo: Francesca Munzi/USAID.

**35** ◀ when he seized power in 1984 after the death of President Sekou Touré. Under him, the army was well taken care of. The new junta undoubtedly feared that under a new civilian government, the army might be downgraded. And they were probably right.

Capt. Camara is fairly well educated. He received a master's degree in economics from the University of Conakry, and did an 18-month military internship with the German army. He also has a reputation as an activist. He was a leader in a number of military "mutinies" that protested low pay and corruption among the senior officers. It is hard to see him agreeing to return to the barracks under new civilian leadership, even if a fresh new group of technocrats is elected. The chances are that he will

want to keep control for the sake of assuring the implementation of reforms in line with his "idealistic" instincts. It is also not excluded that he may seek to run for the presidency himself.

Already, in late January and early February 2009, there were reports from Conakry that the young military junta has developed an "appetite for power." They apparently trust no one to reform the country but themselves. More ominously, Capt. Camara has begun to rid himself of troublesome colleagues who dare to disagree with him. Several of the original junta members have already been arrested for alleged "coup plotting."

Capt. Camara's stated role model is President Touré of Mali who went from coup leader, to democratic

transition leader, to civilian collaborator with Jimmy Carter on health projects in Africa, to democratically elected president. If he follows this model, Guinea can make progress. In this regard, it is important that those who can influence Capt. Camara deter him from emulating another young army officer who seized power 40 years ago, Col. Moammar Ghaddafi of Libya. Let's hope that he is smart enough to avoid all of the Libyan "Leader's" mistakes over four decades in power. If he is able to learn from history, he could use absolute power to translate Guinea's great mineral resources into substantial poverty reduction. The international community should think about this potentially positive scenario before it locks itself into a position of permanent ostracism of the new regime in Guinea. ■

# EuroScrutiny

## The European Union Takes an Interest in the Industry



More deployments equals more need for private sector support. Photo: EUPOL.

THE European Parliament's Subcommittee on Human Rights held a hearing in Brussels in early February that examined the nexus between private military and security companies (PMSCs) and human rights violations. This issue has grown in importance, as the EU continues to engage more and more in peace and stability operations outside of its borders, in Bosnia & Herzegovina, Chad, the Central African Republic and D.R. Congo, all of which clearly require private sector support in order to operate effectively. The EU has signaled its intention to look more closely at the regulation of PMSCs, and in so doing, is positioning itself well to avoid many mistakes made by other international organizations in the past.

Already, a number of European nations successfully use the private sector to augment and support their peacekeeping operations. The use of the private sector has become an unavoidable necessity for many European nations, as they have

dramatically downsized their military capacity. If we are serious about successful peacekeeping, and if we are serious about bringing relief to war-torn societies, it is incumbent upon institutions like the EU to give their member states the tools with which to successfully bring about that goal. If that means providing a robust, but permissive, regulatory environment for private sector support for such operations, then that is what the EU must pursue.

From the outset, it is imperative to understand the importance of words and descriptions when it comes to private contractors in peace and stability operations. Take the term PMSC for example. Although the term, PMSC, has become fairly common nomenclature on the right side of the Atlantic, it remains less popular on the left side, not least because it attempts to classify a decidedly civilian industry as somehow military. Let's not forget the serious debate in the U.S. from a couple years ago over the constitutionality of placing civilian contractors

under military legal jurisdiction. Clearly, these classifications matter. The industry does provide support to the military, but that does not make those civilians in anyway military. After all, we wouldn't classify the guy that washes the windows of the White House as part of the Executive branch of government.

Nevertheless, there are plenty of people who pooh-poo the importance of nomenclature. "Whatever we call them," they say, "the effect is the same." Is it? Take a look at the Organization for African Unity (now African Union) Convention on Mercenarism, and in particular its definition of mercenary. Some have tried to classify private security personnel under this definition, but when actual, classical, "dogs of war" do not easily fit into that definition, it demonstrates how clunky and inefficient the definition is, and in turn, how important it is to get it right.

Similarly, take a look at the U.N. Working Group on the Use ► 38

37 ◀ of Mercenaries, and in particular the reluctance of companies within the peace and stability operations industry to engage with it. The Working Group could be achieving significant gains in good international regulation of the industry. But so long as much of their constituency is offended by their very name and remit, their job becomes all the more difficult, and an important part of their task remains bogged-down in semantics. Again, all because of nomenclature. Given that the Working Group's name can only be changed by the General Assembly (a clunky and inefficient process in itself), it could even be argued that a new U.N. Working Group on Private Contractors could be created, leaving the Working Group on Mercenaries to just concentrate on what its name says it should.

The EU can also learn much from the African Union and the UN. Both organizations, in their focus, largely conceptually, on “mercenaries” has meant that they have missed the point. What these groups, and the conventions their collective universes revolve around, have in common is that they attempt to define a person rather than an activity.

A major problem for these international organizations in moving forward or achieving anything of value is their reliance on the “mercenary” definition, which as mentioned before, is so clunky as to apply to almost no one, except perhaps, perhaps, Simon Mann or Nick Du Toit in Equatorial Guinea. Indeed, Professor Jeffrey Best provided one of the most apt descriptions of the crime of mercenarism. He said that any mercenary that cannot exclude himself from this definition deserves to be shot – and his lawyer with him. But yet there still tends to



*Pointing EU peacekeeping in the right direction. Photo: European Parliament.*

be such a determination to classify private security under that definition.

Let's assume, for the benefit of the UN, the African Union and other fans of the definition, that you could easily classify private security under the “mercenary.” Then what? Congratulations, you've just defined everyone who protects U.S. diplomats, or provides security for critical aid shipments or even refugee camps. The people who would fall under this definition are not entrusted to do anything remotely nefarious – indeed, they are providing critical support to official government operations. On the other hand, the people engaged in what might be considered “classical mercenarism” (and thus the people we actually do want to outlaw) are not necessarily covered in the definition, even though what they are doing is clearly something that should be prohibited. This demonstrates the uselessness of attempting to define a person and rather the importance of defining – and prohibiting – an activity. Protecting diplomats, aid shipments, refugees and reconstruction projects? Good. Attempting to single-handedly and illegally overthrow a legitimate government? Bad. Though the EU is in an excellent position to pursue a common regulatory framework for the industry within its 27 member states, it will

also need to tread a very careful line so not to come into conflict the defense policies of those nations. Some countries rely very little on the private sector to support their militaries, so no doubt any move to increase regulation would go nearly unnoticed. But for countries like the United Kingdom, that has a highly-developed private sector support framework, or countries like Spain, that are looking to outsource more of their military support to civilians, unwise regulation could have deleterious results. Nevertheless, a common and above all sensible framework across the EU would do wonders to reduce confusion, clear gray-areas and ensure that the private sector remains accountable and transparent.

The EU is starting from a position of strength, that being an empty slate. Much positive change can be achieved, so long as the EU learns the lessons of other international organizations who have struggled with this same task. The EU has the potential to achieve a common and sensible regulatory framework for the industry across the continent, so long as it properly defines the industry by defining its activities, and does not deprive the militaries of its member states the critical support necessary to carry out successful peace and stability operations. ■

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