Letter from the Editors

We are proud to release the second issue of Global Security Studies Review (GSSR), the official academic review of Georgetown University’s Security Studies Program (SSP). We would like to thank the staffs of GSSR and SSP, our peer reviewers, and everyone who submitted pieces for publication consideration.

This issue surveys a diverse range of topics. In “Enemies Among Us: The Targeted Killing of American Members of al Qaeda and the Need for Congressional Leadership,” Seth Weinberger examines the issue of targeted killings of American citizens accused of being senior operational leaders of al Qaeda, and argues that “the question of whether an American citizen is in fact eligible for targeting should be subject to some kind of oversight from outside of the Executive Branch.”

David Maxwell suggests various modifications to the alliance strategy between South Korea and the U.S., and argues that the Korean-American Combined Forces Command should not be dissolved in “The Elephant in the Room? North Korea and the Myth of ROK/U.S. ‘OPCON Transfer.’”

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About Us
Global Security Studies Review (GSSR) is the official academic review of Georgetown University’s Security Studies Program (SSP), the academic pillar of the Edmund A. Walsh School of Foreign Service’s Center for Security Studies. GSSR was founded and is operated entirely by SSP students. Our mission is to contribute to the foreign policy debate by exposing readers to a wide array of perspectives on both current and historical international affairs issues. All GSSR articles are edited by SSP students. In addition to full-length peer-reviewed articles, each issue of GSSR features literature reviews, letters to and from the editors, and op-ed pieces.

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In “Embassy Moscow: A Diplomatic Perspective of the Cuban Missile Crisis,” Jason Mullins examines the influence – or lack thereof – of Soviet experts in the U.S. State Department and of the staff of the U.S. Embassy in Moscow on the Kennedy White House’s deliberations and decision-making during the crisis.

Looking back at the American invasion of Iraq a decade ago, John Gannon provides an insider’s account of the decision to go to war, and discusses the effect this has had on U.S. strategic interests in “Revisiting the Invasion of Iraq.”

We hope that you will find this issue thought-provoking and engaging. In continuing to contribute to ongoing and emerging foreign policy debates, we welcome you to join the discussion by submitting a letter to the editors, op-ed, or full-length article for potential publication in GSSR.

Please visit GSSR’s blog, Global Security Studies Forum, where we also welcome your thoughts and comments.

-The Editors

DISCLAIMER

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Letter to the Editors: Why Waltz May Have it Right

To the Editors,

In a well-argued and thoughtful article (“Miscalculating Nuclear Deterrence: Iran and the Bomb,” Global Security Studies Review, Volume I, Issue 1), Roslyn Warren argues that Kenneth Waltz is mistaken in his “more may be better” logic regarding the prospects for conflict in a nuclear Middle East. Her contention appears to rest on two central arguments. The first concerns the “stability-instability paradox,” which holds that dyadic nuclear stability may actually embolden states to engage in lower-level provocations. Warren argues that this instability has the potential to inadvertently escalate to a nuclear level and that it heightens the risk of dangerous misperceptions and accidental detonations. Her second argument concerns the likelihood of preemptive strikes during windows of opportunity/vulnerability in the nuclearization process and shortly thereafter. While her arguments are compelling, there are at least three reasons to question her conclusions.

First, her comparison with the Indo-Pakistani conflict does as much to hurt her case as to help it. Since partition in 1947, India and Pakistan have fought four wars, three major and one minor. The wars in 1947, 1965, and 1971 resulted in 3,500, 8,000, and nearly 12,000 battle-related deaths, respectively. India then conducted its “peaceful” nuclear test in 1974, followed by tests by both India and Pakistan in 1998. These were followed by the Kargil War in 1999, lasting only a few months with just over 1,000 battle deaths.[1] Since this conflict, there have been no large-scale military exchanges between the two sides, despite ongoing rivalry and crises such as the 2011 border skirmishes and terrorist attacks in the Indian Parliament in 2001 and in Mumbai in 2008. In times of crisis, both sides seem able to step back from the brink.[2] Thus, rather than necessarily escalating conflict through misperception or any other route, it seems that mutual nuclear possession is concentrating the minds[3] of these two states, as it likewise could vis-à-vis Iran.

Second, the empirical record regarding the validity of the stability-instability paradox is inconclusive. While intuitively logical, this argument’s greatest weakness is that many of its applications have been in the context of “enduring rivalries,” where

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conflict and crisis is more the norm than a deviation from it.[4] In the case of India and Pakistan, it is possible that nuclear weapons have allowed Pakistan to aggress with greater impunity, but it is equally plausible that this is simply business as usual. Similarly, on the Korean Peninsula, North Korean belligerence and provocation is a constant, not a result of their recent nuclear weapons acquisition, so it is difficult to sort out what exactly is making the difference. Iran would likely be no different, since its inflammatory rhetoric and support of terrorist organizations is a constant phenomenon.

Third, her argument regarding windows of vulnerability is powerful, but ultimately deals with a short-term concern. In the longer term, based on the empirical record, Waltz’s arguments seem to hold. For instance, the early years of the Cold War were surely tense on a nuclear level, but after the Cuban Missile Crisis in 1962, the Soviet Union and the U.S. settled into a more-or-less stable mutual deterrence relationship that arguably prevented war between them.[5] Similarly, after China’s nuclear test in 1964, it managed to avert large-scale war with the Soviet Union, its neighbor and deepest rival, despite fighting a brief conflict along their border in 1969. While Warren may argue that Iran is different because it is a “revisionist” state, it is difficult to find an adjective that better describes the People’s Republic of China of the 1960s.

Given the small sample size available thus far, it seems that long-term relations between Iran and its neighbors could just as easily be stable as they could be tumultuous, but the historical record undoubtedly points at stability. Therefore, it is perhaps best to read Waltz’s argument as being positive in the long-run, but normative in the short-run – in the long-term, nuclear deterrence will lead to stability, so in the short-term it is better not to be reactionary.

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[3] English literary figure Samuel Johnson once noted “when a man knows he is to be hanged in a fortnight, it concentrates his mind wonderfully.”


Op-Ed: Revisiting the Invasion of Iraq

By John C. Gannon

In the past few weeks, I have gobbled up numerous media retrospectives on the 2003 U.S. invasion of Iraq, which came two years after my retirement from the CIA. I heartily agree with those who assert that our military and intelligence services have performed exceptionally well and have applied valuable lessons learned in meeting the brutal challenge of asymmetric conflict in both Iraq and Afghanistan. I also have listened to former policymakers who argue that, despite obvious failures in the war’s execution and in reconstruction efforts, Iraq and the region are better off for our removal of Saddam Hussein’s ruthless dictatorship.

My own settled view is that the invasion was a strategic blunder which has cost the United States dearly in blood, treasure, prestige, and influence in a highly unstable region critical to U.S. strategic interests. It is hard to see it any other way when we now know that our government’s rationale for invasion was exceedingly weak, its projections on the war’s costs and duration were vastly understated, and its predictions of a salutary outcome were excessively optimistic.

In the run-up to the invasion, we heard from senior U.S. government officials that Saddam’s increasing WMD capabilities constituted a real and imminent threat to the United States, and that going to war was the only remaining option for dealing with this “threat.” They highlighted reports that Saddam sought “yellow cake” uranium from Africa to fuel his nuclear reactors. A drumbeat rolled from the Executive Branch indicating Saddam also had ordered aluminum tubes that could only be intended to fit his reactors; that Saudi 9/11 hijacker Mohamed Atta had met with elements of Saddam’s intelligence service in Prague; and that Saddam had provided training for al Qaeda members and was involved in the 9/11 attacks.
All of these reports were hotly debated in the intelligence community, and some were totally rejected; none of them were ever confirmed. Yet some lingered in important intelligence assessments and most survived in public comments by top policymakers. In the fall of 2002, the Pentagon went so far as to create its own intelligence collection unit on Iraq, the Office of Special Plans, to challenge the CIA’s reporting. What I came to see in all of this was a distressing breakdown in both internal intelligence community coordination and in rudimentary collaboration between the intelligence and policy communities, both of which are essential to the proper functioning of a healthy democracy.

UN weapons inspectors under Hans Blix returned to Iraq in the fall of 2002 after a four-year hiatus. When Washington dismissed Blix’s call for more time and patience, it caused me to worry that regime change had trumped WMD as the motivation for invasion. UN weapons inspections up to the time of the invasion discovered no WMD. When the U.S. invaded, the government told us that toppling Saddam would be quick, Iraqis would see U.S. forces as liberators, reconstruction would be financed largely by Iraqi oil revenues, and a democratic Iraq would emerge as a stable model of democracy in a region of autocratic and repressive regimes. Of course, events hardly followed this script.

When no WMD were found, both the White House and Congress pointed a long finger of blame at the intelligence community, a political tack that elicited no serious dissent from the mainstream media, the political elite, and the general public at home and abroad. Both the 9/11 Commission and the WMD Commission were directed to exclude any in-depth investigation of policymakers who, in fact, had played a major role in driving intelligence priorities.

The rushed October 2002 National Intelligence Estimate (NIE) on Iraq, which contained now-undisputed errors on Saddam’s WMD holdings, also clearly played down the notion of an “imminent threat” to the United States and the prospects that Saddam would ever use these weapons against America. Yet the flawed estimate, which the vast majority of members of Congress never even bothered to skim before the invasion, was held up by politicians and policymakers in the post-invasion period as exculpatory evidence of their complicity and as the smoking gun to incriminate the intelligence community.
A decade later, the war’s direct costs stand at over $800 billion, despite officials’ statements in 2003 that it would probably last six months and cost about $70-80 billion. The war’s immense cost in American blood can never be repaid. The Iraqi people have suffered incalculable losses of life, livelihood, and basic infrastructure. America’s influence across the Middle East has declined at a time of unsettling volatility in the region. Iran has been strengthened by Saddam’s removal and the unsurprising revival of Shia political influence in Iraq. Iraq’s hoped-for progression toward democratic rule has been hampered by widespread corruption, mismanagement, and ethnic rivalries and violence – hardly an exportable model of democracy.

We should not gloss over the mistakes made in Iraq. At this point, America cannot afford to put boots on the ground in another conflict of unclear dimensions and uncertain duration while responding to the obvious and urgent imperative that we address critical domestic priorities, including getting our own economic house in order.

The United States has strong institutions solidly based in the rule of law, a world-class capacity for innovation, a powerful if stressed economy, unmatched human capital, and a legendary resolve to retain its enviable stature as a world leader. The speed and effectiveness of our recovery, however, will depend on the extent to which we rely first and foremost on proactive diplomacy to resolve conflicts abroad, and on the degree to which our government preserves a stable intelligence-policy relationship based on mutual respect and a firm commitment to good-faith collaboration. Thankfully, this appears to be the path we are on today.

In his government career, Dr. Gannon served as CIA’s Deputy Director for Intelligence, Chairman of the National Intelligence Council, Assistant Director of Central Intelligence for Analysis and Production, as head of the intelligence team in the White House to standup the Department of Homeland Security, and as the first Staff Director of the House Homeland Security Committee.
Op-Ed: A Road to Nowhere: The Muslim Brotherhood’s Failure to Negotiate a Democratic Transition in Egypt

By Tom Dinham

After an initially promising start upon assuming office on June 30, 2012, Egyptian President Mohamed Morsi and the ruling Muslim Brotherhood movement to which he belongs have lurched from one political crisis to the next. At each stage, an unwillingness to adapt has damaged both the popularity of the ruling movement and any remaining hopes of forging the minimal political consensus required to end the cycle of political polarization, economic deterioration, and violence that is pushing the Egyptian state to bankruptcy and its democratic experiment towards failure.

This abysmal state of affairs is rooted in both the Brotherhood’s massive overestimation of the scope of its electoral mandate and its mistaken belief that a ‘silent majority’ of Egyptians support its policies. The Brotherhood believes that this public support gives it the strength to achieve a successful democratic transition and a sweeping program of reform without engaging and compromising with opposing political forces. Instead of managing a negotiated transition to full democracy, the Brotherhood’s actions have undermined faith in the transition process itself. Unless the Brotherhood invites Egypt’s opposition currents into the transition process and addresses their concerns, the process itself will collapse and economic and security crises will deprive the Brotherhood of its ability to govern.

To be fair, President Morsi inherited a transition process badly mismanaged by Egypt’s military. In the 16 months between Hosni Mubarak’s fall and President Morsi’s assumption of office, Egypt was ruled by the Supreme Council of the Armed Forces (SCAF), an unelected and self-appointed military junta. SCAF used its ‘revolutionary legitimacy’ to structure the stages of democratic transition and secure a privileged position for Egypt’s armed forces in any new order. SCAF’s ‘transitional’ stewardship culminated in a situation whereby any future Egyptian president would preside over a country without a parliament or a ratified constitution, and in which SCAF itself would hold legislative power. This resulted from a Supreme Constitutional Court (SCC) decision.
invalidating the law under which the Islamist-dominated People’s Assembly had been elected from November 28, 2011 to January 11, 2012; this invalidation led to the People’s Assembly’s dissolution.

In response to the SCC ruling, SCAF issued a declaration clarifying the powers of any incoming president. SCAF granted itself legislative power, control of military appointments, and the right to veto articles in Egypt’s draft constitution. This left the president able to form a government and ratify or reject laws. The SCC ruling on June 14, 2012 and SCAF declaration three days later totally disempowered any incoming president. The SCC decision was unusually rushed, and led to accusations of a ‘soft coup’ designed to disempower an Islamist majority.

Thus, it is with some justification that the Brotherhood viewed itself as the victim of a counter-revolution by Egypt’s ‘deep state,’ a term coined to describe a nexus of patronage and vested interests stretching across the military, security services, governmental bureaucracy, business community, and some parts of the judiciary. The Islamists generally, and the Brotherhood in particular, had won three popular ballots – for the People’s Assembly, Shura Council, and the presidency. In the absence of a new constitution, Morsi and the Islamist-dominated Shura Council stood as the only legitimate, elected actors, and thus the only legitimate candidates for managing the remainder of the transition.

The first two months of Morsi’s tenure saw a successful and broadly popular effort to exclude SCAF from its self-appointed political role. This came to a head in a presidential decree issued in August, invalidating the SCAF’s June declaration and transferring legislative and executive powers to Morsi himself. Morsi combined this declaration with a dismissal of senior SCAF leaders and the appointment of younger figures. At the time, these moves were broadly welcomed as a legitimate imposition of civilian authority over the military and thus an advancement of the goals of the revolution.

Since maneuvering itself into the position of steward of the remainder of Egypt’s democratic transition, however, the Brotherhood has shown little understanding of the consultative nature of that role. Indeed, the Brotherhood has persistently followed in the authoritarian footsteps of SCAF, anointing itself as sole guardian of Egypt’s revolution whilst ignoring or suppressing opposition elements that helped usher in the revolution. The Brotherhood’s domination of the transition process has caused broad swathes of
society to disengage politically. Just like under SCAF, a dearth of avenues for legitimate political expressions leaves the ‘street’ as the only remaining arena for politics. Rather than viewing the increasingly vocal – and sometimes violent – calls of the opposition as a symptom of policy failure, the Brotherhood has instead chosen to characterize it as part of a wider ‘conspiracy’ financed and orchestrated by unnamed internal and external actors.

The most glaring example of bad faith can be seen with the birth of Egypt’s troubled new constitution. The Constituent Assembly which drafted the document was elected by the subsequently-dissolved People’s Assembly in June 2012. During the drafting process, virtually every non-Islamist member withdrew from the Constituent Assembly, accusing the Muslim Brotherhood and its allies of dominating the proceedings to push a narrowly Islamist agenda in a constitution meant to represent all sectors of Egyptian society. In particular, the Brotherhood was accused of refusing to compromise on highly contentious articles relating to Islamic Shari’a and of defining the ‘principles of Islamic Shari’a as being drawn from the Sunni corpus of jurisprudence. This new definition of the principles of Shari’a gives a much more narrowly sectarian and explicitly religious basis to Article 2, unchanged from the amended constitution of 1971, which states that “the principles of Islamic Shari’a are the primary source of legislation.”

The subject of 43 separate legal challenges to its constitutional legitimacy, the Constituent Assembly was widely expected to be dissolved by the SCC when these challenges came up for review. Were the largely-discredited Constituent Assembly to be disbanded, it would clearly have been an unwelcome setback for the Muslim Brotherhood; in the light of the unusually-timed SCC ruling to dissolve the People’s Assembly, one could even construe it as a politicized decision. It hardly represented a threat to the transition process or Morsi’s authority, however. Indeed, Morsi could simply have reconstituted a new Constituent Assembly with a slightly more generous allocation of seats to Egypt’s non-Islamist groups, engaging the opposition or at least rendering accusations of bad faith implausible. Instead, Morsi issued his constitutional declaration of November 22, 2012, giving his declarations immunity from judicial oversight and immunizing the Constituent Assembly from dissolution by the SCC. Unwilling to see his disregard for judicial oversight put to the constitutional test through a judicial ruling on the legality of the Constituent Assembly, Morsi’s Islamist allies completed the constitutional draft within a week of the constitutional declaration. The Constituent Assembly voted through

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all 234 articles in one all-night session against a backdrop of popular protests across the country.

The Muslim Brotherhood’s actions in November are rooted in a dangerous overestimation of both its strength and the mandate given to Morsi by the electorate. It is true that the dissolved Legislative Assembly was dominated by the Brotherhood’s Freedom and Justice party, supported by the Salafist al-Nour Party, but Morsi’s margin of victory in presidential elections half a year later was a slim 3.5 percent. Even then, many voters only voted for Morsi out of reluctance to support Shafik, widely seen as a vote for a return to the old order. Even if we were to view the massive Islamist majority in the Legislative and Shura Council elections of January 11 and February 22 as stable, that still would not legitimize ignoring the opposition when formulating the rules of the new order. Unfortunately, the prevailing belief within the Brotherhood is that the opposition merely makes a lot of noise, but that the ‘silent majority’ is with the Brothers. This majoritarian outlook reinforces the very actions that are increasing polarization and accelerating already critical security and economic crises.

Morsi’s stunning power grab has largely severed non-Islamist elements from participation in the transition process. The National Salvation Front, an umbrella group representing the majority of the liberal opposition, has now refused to take part in upcoming parliamentary elections. Instead, the liberal opposition has taken to the streets in often-violent demonstrations, the blame for which is being laid squarely on the Brotherhood. This matters for the Brotherhood because, without a modicum of political consensus, it lacks the means to achieve any of their larger objectives, and lack of progress in any direction is inflicting a terrible toll on their popularity. Without a functioning parliament and calm in the streets, the Brotherhood cannot hope to begin addressing economic issues or reform of the security forces, both key demands of the revolution.

Large-scale outbreaks of violence and disorder are becoming increasingly frequent. Rioting and strikes in the canal zone in January left over 50 dead and the entire zone, encompassing the cities of Port Said, Suez and Ismailia, under a 30-day state of emergency. Although the state of emergency has been ended, Morsi has devolved the right to declare renewed states of emergency to provincial governors. It is highly likely that these powers will be invoked again, as the factors underlying the unrest have not been addressed.
Since assuming control of Egypt’s transition, the Brotherhood’s overestimation of the extent of its electoral mandate and its ability to govern has led to a breakdown of any vestige of a consensual, rules-based transition. The resulting alienation of non-Islamist political forces and their disengagement from the political process has reinforced a cycle of instability and economic decline that is bleeding the Brotherhood not only of its support, but also of its legitimacy and ability to govern. Without meaningfully incorporating the opposition in a negotiated transition, this situation will continue to deteriorate. The catastrophic culmination of the security and economic crises may well cause a breakdown so severe as to force a renewed military takeover of political power, aborting any hope of a genuinely democratic transition.

Tom Dinham is a journalist and writer.
Enemies Among Us: The Targeted Killing of American Members of al Qaeda and the Need for Congressional Leadership

By Dr. Seth Weinberger

ABSTRACT: The ongoing armed conflict against al Qaeda is a war like no other the United States has fought. In particular, it stresses the legal regime governing the use of force that was established to control more traditional uses of force by states. For the United States, the question of the targeted killing of American citizens accused of being senior operational leaders of al Qaeda is particularly challenging. Do the traditional laws of war operate in these cases, or should American criminal law with constitutional protections govern these killings? Neither option is entirely satisfactory. However, in the Hamdi v. Rumsfeld decision, the U.S. Supreme Court indicated that a rethinking of the laws of war might be required for the new circumstances. This paper argues that while targeting American members of al Qaeda should remain essentially an executive power, the question of whether an American citizen is in fact eligible for targeting should be subject to some kind of oversight from outside of the Executive Branch.

On September 30, 2011, an American drone fired on and destroyed a convoy of members of al Qaeda in the Arabian Peninsula (AQAP). The target of the strike was Anwar al-Awlaki, a U.S. citizen born in New Mexico in 1971, accused of being a propagandist and operational leader for AQAP. The targeted killing of an American citizen raises a simple yet extremely discomfiting problem: Should the President of the United States be able to order an American citizen to be killed without trial, without any external review process, and without appeal?

In June 2010, John Brennan, then Deputy National Security Adviser for Homeland Security and Counterterrorism and current CIA director, stated that “there are dozens of U.S. persons [who have joined international terrorist organizations] who are in different parts of the world and they are very concerning to us.”[1] The issue was made even more salient on February 4, 2013, when an unclassified U.S. Justice Department (DOJ) white paper was released which laid out the legal justification for the targeted killing of “a U.S. citizen who is a senior operational leader of al Qaeda or an associated force.”[2]
The release of the targeted killing white paper unleashed a barrage of criticism of the policy. One author called the brief “a disaster” and asserted that “the Obama administration...wants to justify...assassinating citizens without specific and credible evidence of imminent violence.”[3] Another warned that “what’s so terrifying about this white paper is that it’s unconstitutional, not in the sense that it violates any particular tenet of the American Constitution, but in that it doesn’t respect the premise of there being a Constitution in the first place.”[4] Yet another claims that “[the white paper] is every bit as chilling as the Bush Office of Legal Counsel (OLC) torture memos in how its clinical, legalistic tone completely sanitizes the radical and dangerous power it purports to authorize.”[5] A few voices defended the policy, arguing, for example, that “once you take up arms against the United States, you become an enemy combatant, thereby forfeiting the privileges of citizens and the protections of the Constitution,”[6] and that “American presidents...have lawfully deployed military force against citizens in insurrection, rebellion, or war against the United States from the beginning of the nation.”[7]

However, focusing on the question of whether and when the president can order the targeted killing of an American citizen who has joined al Qaeda – as did almost all of the analyses of the DOJ white paper – not only misses the more important question involved but also obscures the best avenue to a potential solution. Instead of asking whether the president ought to be able to order the killing of American members of al Qaeda, we should instead be asking whether the president should be allowed to determine when an American citizen can be considered to be a senior operational member of al Qaeda, and if so, by what process?

Why is the question of determining who is a member of al Qaeda more important than the question of whether the president can kill American senior operational members of al Qaeda? As made clear by the World War II-era case Ex Parte Quirin, American citizens who join the armed forces of an enemy of the United States during wartime forfeit many of their basic constitutional protections and can be, as was the American citizen involved in the case, tried by military tribunal and executed under the laws of war.[8] The 2004 case of Hamdi v. Rumsfeld built on the Quirin case, finding that not only were at least some of the president’s war powers activated by congressional passage of the Authorization for the Use of Military Force (AUMF) in 2001, but that, as is normal under the laws of war, American citizens seized on the battlefield can be detained until the end of the conflict.[9]
However, the *Hamdi* decision also illustrates why the question of who is and is not a member of al Qaeda is the more critical question. The U.S. Supreme Court’s decision in *Hamdi* contained language vital for understanding the issue. The Court acknowledged that while enemy soldiers seized on the battlefield during a “normal” war do not receive an opportunity to challenge their detention, the exigencies of the war in Afghanistan against the Taliban dictate that “the circumstances surrounding Hamdi’s seizure cannot in any way be characterized as ‘undisputed.’”[10] Furthermore, because “the risk of erroneous deprivation’ of [Hamdi’s] liberty is unacceptably high” and as the case dealt with “the most elemental of liberty interests – the interest in being free from physical detention by one’s own government,” the Court decided that the traditional rules of war needed adjusting for the armed conflict against the Taliban.[11] Thus, the Court ruled that “a citizen-detainee seeking to challenge his classification as an enemy combatant must receive notice of the factual basis for his classification and a fair opportunity to rebut the Government’s factual assertions before a neutral decision maker.”[12] In essence, the Court ruled that the armed conflict with the Taliban sufficiently resembled traditional conflict as to allow for the indefinite military detention of enemy combatants, but that the difficulties involved in determining who is and is not an enemy combatant (for example, fighters in the Taliban neither wore uniforms nor carried identification) warranted an alteration in the normal application of the president’s war powers where American citizens are concerned.

The laws of war were designed to govern ‘traditional’ wars, in which the armies of states met on the battlefield and in which soldiers wore uniforms clearly identifying themselves as combatants. The lack of clarity that prompted the ruling in *Hamdi* comes from the inherent ambiguities in a low-intensity war against a non-state actor that is not limited to a specific battlefield. These ambiguities are magnified in the conflict against al Qaeda. Not only do al Qaeda’s members not wear uniforms or carry identification cards, but, given the decentralized nature of the organization, it is not even clear what exactly constitutes membership. It might be possible that one can become a “member” of al Qaeda simply by declaring or even believing oneself to be a member. In short, we should be much less confident in our judgments about who is and who is not a member of al Qaeda.

Several examples illustrate the problems caused by this ambiguity over membership in al Qaeda. First, consider Major Nidal Hassan, who stands accused of 13 counts of murder and 32 counts of attempted murder in the shootings at Ft. Hood, Texas.
While Hasan had been in communication with Anwar al-Awlaki, he was ultimately court martialed rather than tried as a terrorist. This decision troubled terrorism scholar Bruce Hoffman, who argued that while he “used to argue it was only terrorism if it were part of some identifiable, organized conspiracy… this new strategy of al-Qaeda is to empower and motivate individuals to commit acts of violence completely outside any terrorist chain of command.”[13]

Next is the case of al Shabaab, an Islamist insurgent movement dedicated to bringing Sharia to Somalia. In February 2012, leaders of al Shabaab officially pledged allegiance to al Qaeda, a pledge that was enthusiastically accepted by Ayman al-Zawahiri, who succeeded Osama bin Laden as the formal head of al Qaeda.[14] Since the 2012 National Defense Authorization Act (NDAA) expanded the scope of the 2001 AUMF to include “associated groups,” al Shabaab is now a legitimate target for American forces. This poses several problems. First, a number of Somali-American citizens have joined al Shabaab, mostly for religious and nationalistic reasons related to the domestic political situation in Somalia.[15] Second, al Shabaab has largely confined its activities to inside Somalia, with the exceptions of a bombing in Uganda and a grenade attack in Kenya, attacks almost certainly intended to convince Uganda and Kenya to withdraw their respective troops from Somalia.[16] Third, many members have splintered-off from the main body of al Shabaab in the wake of the union with al Qaeda, apparently to keep their struggle focused on Somalia rather than the global jihad.[17] There seems to be little evidence, other than the formal affiliation, that al Shabaab has taken any actions against American citizens or interests or that al Shabaab is in any way other than name a part of the global terrorist movement.

And yet, under the 2012 NDAA, a Somali-American who becomes a senior operational leader of al Shabaab in order to liberate and Islamize Somalia is the legal equivalent of Anwar al-Awlaki and is therefore eligible for being targeted for death. Is this the enemy as envisioned by Congress and defined in the 2001 AUMF?

These examples call attention to several vital questions surrounding the Obama Administration’s use of targeted killing against American citizens. Is every group that is somehow connected to al Qaeda the “enemy” in this conflict, regardless of the threat it poses to American national interests or its involvement in global jihad? What kind of connection – formal, operational, or ideological – is sufficient justification for including an affiliated group under the scope of the 2001 AUMF and 2012 NDAA? Exactly what
actions make an individual a member of al Qaeda? Given these serious questions about what constitutes involvement with al Qaeda, it is dangerous for decisions about the eligibility of American citizens for targeted killing to be made without legislative definition or judicial process or review.

The Obama Administration would likely claim that such decisions are a fundamental incident of war and therefore part of the president’s war powers that were activated by the 2001 AUMF. And under the current legal regime, the President’s use of drones to eliminate American senior operational members of al Qaeda is indeed legal.

But legal is not the same thing as prudent. Simply because a course of action is permitted does not mean it should be taken. For a number of reasons, perhaps most importantly because it is increasingly unclear what constitutes being a senior operational member of al Qaeda, we should be skeptical of allowing the Executive Branch to judge these decisions on its own. Without effective checks or definition, there can be little doubt that the bar for defining membership in al Qaeda and eligibility for targeting will move downwards, allowing more Americans to be targeted without due process. And in the absence of additional congressional actions to limit the president’s ability to make such determinations, that is exactly the situation that exists.

But how could such checks or definitions be imposed? The President’s likely defense – that under the 2001 AUMF, only the Executive Branch can determine questions of al Qaeda membership – is a strong one. Here we must return to the Hamdi decision. By giving Yasir Hamdi a status hearing to determine his eligibility for indefinite military detention without trial, the Supreme Court interfered with the traditional war powers of the president and altered the standard applications of the rules of war. The Court argued, as mentioned earlier, that as the prospect of indefinite detention involves the “most elemental of liberty interests,” “striking the proper constitutional balance...is of great importance to the Nation during this period of ongoing combat.”[18] What is true for an American citizen detained on the battlefield and assigned for indefinite detention is undoubtedly true for an American citizen who has been targeted for death by a U.S.
drone strike. Surely, the right not to be killed by a Hellfire missile ordered by one’s own government without due process must be as elemental of a liberty interest, if not more so, as “the interest in being free from physical detention.”[19]

Furthermore, while the Court did add a hearing into the process for military detention, it still permitted the U.S. government to assign an American citizen to indefinite detention. It did so even while acknowledging that, given the undefined nature of the conflict against the Taliban, which the U.S. government might not consider won for two generations or more, “Hamdi’s detention could last for the rest of his life.”[20] The justification given for leaving the basic structure of military detention in place was the determination that conflict between the U.S. and the Taliban resembles the traditional conflicts for which the laws of war were created. However, the Court warned that “if the practical circumstances of a given conflict are entirely unlike those of the conflicts that informed the development of the law of war, [the long-standing law of war principles] unravel.”[21] It seems reasonable that a conflict like the one with al Qaeda – in which drones are used to target American citizens who have been identified as senior operational leaders of decentralized affiliates of an already decentralized non-state terrorist organization – presents circumstances unlike traditional wars in which enemies were readily identifiable by their uniforms, identification cards, and adherence to a clearly visible military and political chain of command.

From the logic of the Hamdi decision, it follows that adjustments or adaptations to the traditional war powers of the president to target American citizens believed to be members of the armed forces of the enemy might be both justifiable and allowable. What options or procedures could be put into place? Two options stand out. First, Congress could attempt to identify the positive criteria for membership in al Qaeda, the nature of the relationships between al Qaeda and its various affiliates, and, more specifically, the definition of a senior operational leader. While this would undoubtedly be a difficult task, there is precedent for such efforts by the Legislative Branch. The laws surrounding conspiracy must define at what point constitutionally-protected free speech switches to the illegal preparation for criminal activity.

But once again, what is possible is not always the best course of action. Given the diffuse nature of global terrorist networks and the flexible nature of the battlefield, trusting an a priori assessment to accurately account for all possibilities and to do so in a timely manner is likely a bad idea. A better option would be the creation of a special
national security court, along the lines of the courts that hear federal requests for warrantless wiretapping in accordance with the Foreign Intelligence Surveillance Act (FISA). Such a court could be created and empowered by Congress to hear presidential requests to designate an American citizen as a senior operational leader of either al Qaeda or of an affiliated group as defined under the 2001 AUMF and the 2012 NDAA.

Several people have voiced objections to the creation of a FISA-style “drone court.” One worries that a court of “generalist federal judges” will lack “national security expertise,” “are not accustomed to ruling on lightning-fast timetables,” and should not be able to involve themselves in “questions about whether to target an individual for assassination by a drone strike.”[22] Another writes that, “the determination of whether a person is a combatant to judicial review would seem to rather clearly violate the separation of powers requirements in the Constitution,” as in Ex Parte Milligan, the Supreme Court ruled that the congressional war power “extends to all legislation essential to the prosecution of the war...except such as interferes with the command of the forces and the conduct of campaigns,” which includes, the author argues, the “sole authority to determine who the specific combatants are when conducting a campaign.”[23] While in a traditional war such objections are almost certainly correct, in the context of the Hamdi decision and with the unconventional nature of the armed conflict against al Qaeda, they become less compelling.

First, if properly defined, the new court could be limited solely to questions of eligibility, not the decision of whether and when to conduct a drone strike. The court would carry out a function quite similar to the FISA courts, judging whether the Executive Branch has sufficient evidence to support its claim that a citizen has become a senior operational member of a group covered under the AUMF and 2012 NDAA. This would differ little from the FISA courts’ assessments of Executive Branch requests to wiretap individuals believed to be agents of a foreign power without a warrant.

Second, given the definition of imminent threat in the Department of Justice’s white paper – a definition that incorporates “considerations of the relevant window of opportunity, the possibility of reducing collateral damage to civilians, and the likelihood of heading off future disastrous attacks on Americans”[24] – such eligibility decisions are not likely to be made in the moments immediately prior to a drone strike. Rather, eligibility decisions are likely made in the process of long investigations and in light of much intelligence.
Finally, while Anthony Arend is almost certainly correct that in nearly every other incidence of armed conflict, Congress would not be permitted to involve itself in determinations of who is and who is not an eligible target for the American military, as Hamdi makes clear, the armed conflict against al Qaeda is not like every other armed conflict. The Supreme Court has already inserted a judicial proceeding into the determination of whether an American citizen seized on the battlefield is actually an enemy combatant and therefore eligible for indefinite detention, a determination that traditionally has been solely within the purview of executive power. It would be counterintuitive – to say the least – if an American citizen could be killed, but not detained, without judicial involvement.

Terrorism is, without question, a serious threat to the security of the United States. President Obama is currently employing military force under a legal authority granted by Congress in the 2001 AUMF and in Section 1021 of the 2012 NDAA. That legal authority gives the president the power to determine which groups are affiliated with al Qaeda, to identify American citizens who have assumed senior operational roles within those groups, and to kill those citizens through drone strikes or other means. However, while Congress may have given the president the power to order targeted killings, that does not mean that Congress cannot or should not alter the scope of that authority. Congress’s fundamental tasks are to define the contours of the American legal sphere, to determine the legal status of American citizens before the Executive Branch, and to protect the rights of U.S. citizens.

America’s war against terrorism has produced myriad challenges to the civil liberties of American citizens: from the warrantless wiretapping program under President Bush to the military detention without trial of Yasir Hamdi to the targeted killing of Anwar al-Awlaki, the rights of American citizens have been tested as never before. If an opportunity exists to clarify and define that balance without unduly interfering with the president’s war powers, it should be taken. But that requires Congress to put aside its traditional reluctance to interfere with the conduct of military campaigns and exercise its own war powers. Unfortunately, Congress does not possess a stellar track record on this issue. Perhaps by using the Hamdi decision to point the way, Congress can be encouraged to step up to define and protect the most elemental right of all – the right not to be killed by one’s government without judicial involvement.
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[20] Ibid, 520.


Embassy Moscow: A Diplomatic Perspective of the Cuban Missile Crisis

By Jason Mullins

Most scholarly work on America’s approach to the Cuban Missile Crisis emphasizes the decision-making process within the White House – and for good reason. President John F. Kennedy maintained an exceptionally close-knit group of advisors, who participated in highly secretive yet frenzied debate between October 16 and 28, 1962. But what about the diplomats and U.S. Foreign Service Officers? What was the role of America’s chief negotiators and Soviet experts during the world’s closest brush with nuclear war? Furthermore, how did the American embassy in Moscow participate in this U.S.-Soviet confrontation?

After examining a wealth of primary source documents – including State Department cables, Executive Committee (ExComm) conversation transcripts, White House memoranda, Foy Kohler’s personal account, and more – I have made several key determinations. Firstly, White House transcripts reveal that President Kennedy severely limited the role of acting State Department diplomats from the outset; rather, he chose former U.S. Ambassadors to the Soviet Union Charles Bohlen and Llewellyn Thompson as his main sources of diplomatic perspective. Their participation on the ExComm is readily apparent from other accounts of the crisis, but a brief discussion of their role provides a well-rounded picture of their diplomatic influence.

It was striking to learn that America’s then-Ambassador to the Soviet Union, Foy D. Kohler, and his embassy staff were ignorant of the unfolding crisis for nearly half of the infamous “thirteen days.” Thereafter, between October 22 and October 28, Kohler and the U.S. embassy in Moscow (Embassy Moscow) performed two main responsibilities: exchanging messages between the Kremlin and White House and, at least as importantly, serving on the frontlines of an international public opinion contest between the superpowers. In other words, Kohler and his Foreign Service Officers served as an extension of Kennedy’s public opinion management rather than as substantive negotiators and advisors. State Department cables, among other sources, depict an embassy fervently monitoring Kremlin propaganda and fighting to positively influence public perceptions, both in the USSR and around the globe, of U.S. actions vis-à-vis Cuba.
This public relations contest included Soviet signal jamming, media manipulation, and staged demonstrations.

Furthermore, the secretive nature of the crisis – where adversaries sparred behind the scenes through a series of chess-like moves and gestures of force – undermined the role of diplomacy on both sides of the crisis. Perhaps a different approach, with more emphasis given to transparent negotiations and a utilization of diplomatic corps, could have prevented the world from reaching the nuclear precipice.

The Limits of Diplomatic Influence: Bohlen and Thompson

From the outset, President Kennedy vastly limited the circle of government officials with knowledge of the unfolding Cuban Missile Crisis. This inherently reduced the role of the State Department and, consequently, the diplomats with closest access to the Kremlin leadership – those of Embassy Moscow. During an initial meeting on the crisis, at 11:50 am EST on October 16, 1962, President Kennedy discussed the need for utmost secrecy and designated which individuals would be involved in the decision-making process:

*We ought to just decide who we talk to and how long ahead and how many people, really, in the government. There’s going to be a difference between those who know that...there are these, uh, uh, bases, until we say or the Pentagon or State won’t be harsh.[1]*

President Kennedy continues, with respect to State Department involvement: “Nobody, it seems to me, in the State Department. I discussed the matter with, uh, Bohlen of the Soviet bloc and told him he could talk to Thompson. So that’s those two. It seems to me that there’s no one else in the State Department that ought to be talked to about it...”[2] Kennedy is referring to all civil service officials other than his Secretary of State, Dean Rusk, and Under Secretary of State for Economic and Agricultural Affairs, George Ball. He also excludes current and former members of the U.S. Foreign Service, with the exception of former Ambassadors Thompson and Bohlen.

Due to Kennedy’s desire for secrecy because of the sensitivity of the crisis, diplomats and Soviet experts stationed in Moscow were excluded from the decision-making process. Charles Bohlen and Llewellyn Thompson served as the chief sources of
diplomatic perspective for Kennedy during ExComm debates. Yet their expertise had a limited influence on ExComm’s conclusions. A memo from Bohlen to Secretary of State Rusk, dated October 17, illustrates his diplomatic approach to the crisis: “No one can guarantee that this can be achieved by diplomatic action – but it seems to me essential that this channel should be tested out before military action is employed. If our decision is firm (and it must be) I can see no danger in communicating with Khrushchev privately worded in such a way that he realized that we mean business. [...] This I consider an essential first step no matter what military course we determine on [sic] if the reply is unsatisfactory.”[3]

The Bohlen Plan is mentioned in an October 18 memo which outlines various policy options and their respective supporters. The idea of sending a “prompt letter to Khrushchev” and “deciding after the response whether we use air strike[s] or [a] blockade” was supported by all blockade advocates and some of the air strike advocates, but was opposed by Chairman of the Joint Chiefs of Staff General Maxwell Taylor.[4] Despite gaining an initial degree of support, the plan was ultimately rejected when the president’s Special Counsel, adviser, and primary speechwriter Theodore Sorenson determined that it would be impossible to compose such a letter without Khrushchev completely outmaneuvering the ExComm.[5] For example, a public response to the letter by Khrushchev could prove politically embarrassing for Kennedy, who had promised to remain tough on the Kremlin during his campaign. They considered another diplomatic approach as well – contacting Fidel Castro directly and suggesting, based on previous Soviet statements, that the USSR would use Cuba as a bargaining tool for concessions in Berlin or other parts of the world. Ultimately, Kennedy set this approach aside because he felt the crisis would and should remain a solely U.S.-Soviet issue.[6]

Llewellyn Thompson’s contributions to ExComm’s decision-making process have been celebrated in several accounts of the crisis. David Mayer’s The Ambassadors and America’s Soviet Policy describes Thompson’s role as one “closely questioned about Khrushchev’s motives, probable state of mind, immunity to coup d’état, and likely response to one or another type of U.S. action.”[7] Most accounts of the crisis credit either Thompson or Robert Kennedy with advising JFK to respond to the first of two letters that Khrushchev cabled to the White House between the evening of October 26 and the morning of October 27. Post-crisis mythology holds that Kennedy ignored the second letter, which was more demanding in tone and suggested the U.S. remove its missiles in Turkey in return for a removal of missiles in Cuba, and instead chose to respond to the
more conciliatory letter. But authors such as Michael Dobbs have debunked this fabled two-letter maneuver. Utilizing primary sources, such as transcripts from ExComm meetings, he shows that Kennedy actually preferred the negotiated route and did not want to risk nuclear war over the obsolete Jupiter missiles.[8] Kennedy’s response to the first letter actually concealed the backchannel discussions regarding Turkey- and Cuba-based missiles that took place between Robert Kennedy and Soviet Ambassador the U.S. Anatoly Dobrynin. President Kennedy directed Robert Kennedy to meet with Dobrynin and inform him that the Jupiters would be withdrawn from Turkey soon, showing that the missiles in Turkey would not remain an obstacle to an agreement. Knowledge of the arrangement was limited to President Kennedy, Robert Kennedy, Secretary of Defense Robert McNamara, Dean Rusk, and National Security Adviser McGeorge Bundy. Additionally, the Soviets were required to keep the arrangement secret or else President Kennedy would nullify the deal.[9]

It should be noted that Thompson indeed played a significant role in ExComm deliberations. His comments appear in far more ExComm transcripts than do Charles Bohlen’s, and he was consistently consulted about Soviet intentions. In fact, Kennedy had appointed Bohlen as America’s Ambassador to France toward the beginning of the crisis, which accounts for his limited role. However, the inclusion of only two diplomats with Soviet expertise on the ExComm highlights the significant limitations of diplomatic perspective during the crisis.

**Left in the Dark within “United States Target No. 1”**

Then U.S. Ambassador to the Soviet Union Foy D. Kohler and his staff of Soviet-focused Foreign Service Officers did not participate in the policymaking process. Between the revelation of Soviet intentions on October 16 (via U-2 photoreconnaissance) and the evening before Kennedy’s October 22 speech regarding a naval quarantine of Cuba, Embassy Moscow remained uninformed regarding what would become one of the greatest crises in Soviet-American relations; that is, Embassy Moscow remained ignorant of the unfolding crisis for six of the “thirteen days.” Such a limited use of diplomatic officials understandably resulted from the White House’s desire to decrease the potential for leaks and misunderstandings during such a sensitive evolving crisis. Yet the lack of East-West transparency regarding intentions, goals, and decisions may have brought the world closer to nuclear war.

[http://gssr.georgetown.edu](http://gssr.georgetown.edu)
One of the few documented meetings between Kohler and Khrushchev occurred at the beginning of the crisis, on October 16, when Khrushchev continued to disguise his intentions regarding Cuba. In his report back to Kennedy about the meeting, Kohler wrote that “Khrushchev said he wished to assure president that port regarding which Soviets had signed agreement was just fishing port.”[10] Kohler also mentions this meeting within his personal account of the crisis. Importantly, he goes on to explain how this was the first and last he heard about developments in Cuba until the eve of Kennedy’s October 22 speech:

When as Ambassador I paid my first call on him in early October, Khrushchev...had been at some pains to assure me that a fishing port the Soviets were building in Havana was just that and not something else. The real import of Khrushchev's tactics in that conversation became clear to me a few days later, on Sunday, October 21, when the embassy received an advance text of the speech which the President would deliver at 7 P.M. the following evening over American television, revealing the Soviet attempt to smuggle missiles into Cuba and demanding their withdrawal.[11]

Kohler somewhat downplays the length of time during which he was unaware of both Soviet actions and Washington’s chosen response when he says “a few days later.” As discussed above, he and his staff were uninformed for nearly a week and were only told via cable the night before Kennedy’s speech.

Thereafter the role of Embassy Moscow remained secondary in terms of influence on decision making in Washington. Despite proximity to and knowledge of the Kremlin leadership, Kohler and his diplomatic staff mainly passed messages between Kennedy and Khrushchev. Priscilla Roberts, author of Cuban Missile Crisis: The Essential Reference Guide, comments thusly on the limited role of Embassy Moscow: “Kohler was not close to President John F. Kennedy, and during the Cuban Missile Crisis the U.S. Embassy in Moscow functioned largely as a conduit and translation bureau for urgent messages between Khrushchev and U.S. officials in Washington.”[12]

Kohler’s account of the crisis after October 22 corroborates this view. He writes, “This was the opening of a tense and hectically busy week for us in the embassy, delivering and receiving, translating, encoding and dispatching a dozen major communications
between the two capitals. We did not even have time to think about the fact – of which Secretary Rusk reminded me later – that we were sitting in the middle of United States target No. 1.” Kohler did not mention much else about his involvement in the crisis besides that of receiving the Soviet note on Friday, October 26, which contained Khrushchev’s agreement to withdraw missiles from Cuba.[13]

Embassy Moscow in the Battle for Hearts and Minds

Curious about Kohler’s actions during the gap in his personal account, I sifted through cables sent from Moscow to Washington between October 22 and 26 to try to discover more about his role in the crisis. I have concluded that Kohler and his staff lacked major influence on policy making and instead focused on monitoring and shaping Soviet popular perceptions of U.S. actions vis-à-vis Cuba.

A cable that Kohler sent to Washington on October 23 detailed “initial Sov[iet] public reaction” to Kennedy’s quarantine speech. He explained that the “Sov[iet] gov[ernment’s] statement on Cuba has completely and deliberately, of course, passed over basic cause of trouble: offensive repeat offensive character of Soviet missile installations.” Kohler suggests that the State Department project Voice of America broadcasts in an “all-out effort get this basic fact into Sov[iet] Union in Russian and other languages but primarily in Russian.”[14]

Kohler’s memoirs also briefly refer to meetings with “a number of Soviet ministers” after October 22, but he does not provide much detail about the content of these meetings.[15] Yet an October 25 cable titled “Meeting with Soviet Official on Media and the Cuban Crisis” provides more specifics. Within the cable, Kohler describes a conversation with a Soviet official – whose name remains excised – where Kohler expressed “in strong terms our belief [that] Soviet media [is] not correctly informing Soviet people of [the] facts in [the] current Cuba crisis.”[16] Based on details within the conversation, one can infer that this unnamed official may have been involved with the Telegraph Agency of the Soviet Union (TASS) – the entity that controlled news coverage within the Soviet Union. Kohler refers to a TASS statement from September 11 regarding the “defensive nature of Soviet arms assistance”, and then tells the official that “there had been [a] breakdown in communications or else [the] Soviets had chosen [to] deliberately ignore [the] limits of our position” by misleading their people. The cable continues, “I remarked that Soviet workers who are reported to be condemning [the] President’s
speech in factory meetings and students who [are] demonstrating in front [of the U.S.] Embassy could hardly know what they condemning since they have neither read it [n]or heard it.”[17]

Throughout the discussion, Kohler speaks as if the Soviet official in question can influence the content of Soviet media, further reinforcing my belief that the individual was involved with TASS. He even asks “whether [the] people had been informed on Stevenson[’s] UN speech or U Thant[’s] letter to Khrushchev”, and argues that the “Soviet public should be told what [the] real nature [of] our complaint is, even if at [the] same time [they are] informed [of the] Soviet version.[18] With this in mind, and after considering other cables exchanged between the State Department and Embassy Moscow during the second half of the crisis, it becomes clear that Kohler and his staff had joined the frontlines in the battle for the Soviet people’s hearts and minds. The Kennedy Administration seems to have used its Ambassador to the Soviet Union and Embassy staff not only to exchange messages, but also to monitor and combat slanted Soviet media in order to manage public opinion within the USSR.

An examination of messages from the State Department to embassies both in the USSR and around the world between October 22 and 26 reinforces this finding. Cables from Washington frequently emphasized the public line diplomats should take when discussing the crisis, with the goal of subverting Soviet statements. An October 24, 13-page cable from Secretary Rusk to all embassies stated firm guidelines for battling Soviet portrayals of the crisis:

There is [an] urgent need for clarity and consistency in our statements explaining our action against Soviet bases in Cuba...We can expect a massive effort at distortion from Moscow and it must be countered at every opportunity to explain our position rather than waiting to react to Communist or Cuban accusations.[19] [...] It is likely that in their propaganda – and in any possible future discussions – [the] Soviets will try to draw parallels between their missile bases in Cuba and our establishments in allied countries...it should be noted, and underlined, that any indication on our part that we accept this suggest[ed] analogy or that we might be considering a ‘trade’ on this basis could have disastrous political effects in the countries concerned.[20]
It seems safe to assume that Kennedy, a shrewd politician with a keen awareness of the media’s impact on public opinion, directed Rusk to give such instructions. Within this context, Kohler’s suggestion to utilize Voice of America broadcasts and his October 25 conversation emphasizing the role of media with an unnamed official make more sense. Kohler and Embassy Moscow had become an extended arm of Kennedy’s campaign to manage media, popular opinion, and interpretations of U.S. actions vis-à-vis Cuba.

The battle for Soviet public opinion took many forms and presented significant challenges to the officials in Embassy Moscow. Kohler highlights one of those difficulties in the October 25 cable reporting his meeting with an unnamed official. He tells the official that “Soviet jamming, which at [its] high point, was [the] most shocking thing I had found on my return to [the] USSR.”[21] Further research clarifies what Kohler meant. An account of military attaches stationed in Embassy Moscow released through the CIA Historical Review Program in 1995 reveals that “the first information about Soviet missiles in Cuba came to the attaches in the newscasts of the Voice of America and BBC.” The report continues, “When these were in Russian they were totally jammed, but the jamming of the English was less severe and a part of it could be understood.”[22] This sheds light on another aspect of the Cuban Missile Crisis – a direct Soviet-American confrontation through the airwaves and media, aimed at defining the crisis in terms acceptable to one side or the other.

In addition to using signal jamming to prevent the Soviet populace from knowing about the existence of offensive weapons in Cuba, the Kremlin also used media manipulation to draw attention to particular incidents it wished to emphasize. The military attaches of Embassy Moscow documented one such occurrence where, on October 25, “the Soviet new media gave unexpected publicity to a telegram that Aleksey, the Patriarch of Moscow and all Russia, had sent to U Thant... It warned that mankind was threatened by the outbreak of a world war as a result of actions taken by the U.S. administration against the Republic of Cuba. The United States was violating Christian teachings.” Kremlin leadership also organized student demonstrations to bring negative attention to the U.S.; one took place on October 24 and another occurred on October 27. The CIA account claims that “the youthful protesters had no notion that the Soviet leaders were squirming under a virtual ultimatum to remove their strategic weapons from Cuba; they had been told only that the imperialistic capitalists of the United States were planning to invade the homeland of the peace-loving Cubans.”[23] Embassy Moscow was indeed engaged in a multi-faceted public opinion struggle with the Soviet Union.
Conclusions

Paradoxically, the Americans close to the Kremlin leadership with valuable diplomatic perspectives were left mostly in the dark and relegated to a role of secondary influence. In fact, Foy Kohler and Embassy Moscow remained unaware of the unfolding crisis for the first half of those hectic thirteen days. Kennedy’s choice to include Charles Bohlen and Llewellyn Thompson indeed provided a degree of diplomatic perspective within ExComm discussions, but diplomatic methods (such as the Bohlen Plan, for example) remained underutilized and were never formally implemented. For the second half of the crisis, following President Kennedy’s October 22 address, Embassy Moscow assumed the function of messenger between Washington and Moscow. Yet even this objective was undercut by alternate channels, such as public radio transmissions (for example, public announcements made by Khrushchev or Kennedy) and notes given to the Soviet Union’s ambassador in Washington, Anatoly Dobrynin. The state of communications technology made these forms of message exchange quicker, further marginalizing Embassy Moscow’s already limited role. In lieu of their diminished role, Kohler and his staff instead focused on a public opinion contest aimed at favorably defining the nature of U.S. actions regarding Cuba and combating propaganda within the Soviet Union during the crisis. Overall, this adds a valuable dimension to the crisis – illustrating how a psychological media war was waged by Washington through Embassy Moscow and other foreign posts in the hopes of favorably representing U.S. actions with respect to Cuba.

Furthermore, the limited role of diplomats and Foreign Service Officers in mediating the Cuban Missile Crisis raises the unanswerable question of whether the use of transparent bilateral negotiations, rather than opaque signaling techniques and bluffs and counter-bluffs, could have deescalated the crisis and brought the world back from the brink of nuclear war sooner. Yet a close reading of the crisis shows that coercive diplomacy and gesturing, through actions taken or words said, pushed the world very close to the precipice before a resolution could be found. In fact, the ultimate resolution involved the negotiated removal of Jupiter missiles from Turkey, albeit through last-minute cables and backchannels.

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http://gssr.georgetown.edu
[2] Ibid.
[4] “Outline of Options Identified by the ExComm and Their Supporters,” Digital National Security Archive, Non-Classified Memorandum, October 18, 1962, 2; Cuban Missile Crisis, CC00671.
[6] Ibid.
[14] “Recommendation to Broadcast Information on the Offensive Nature of the Missiles in Cuba into the Soviet Union via Voice of America,” Digital National Security Archive, Confidential Cable, Moscow, October 23, 1962, 1; Cuban Missile Crisis, CC01067.
[16] “Meeting with Soviet Official on Soviet Media and the Cuban Crisis,” Digital National Security Archive, Confidential Cable, Moscow, October 25, 1962, 2; Cuban Missile Crisis, CC01368.
[17] Ibid, 1.
Cuba,” Digital National Security Archive, Confidential Cable, October 24, 1962, 13; Cuban Missile Crisis, CC01150, 1.


[23] Ibid.
The Elephant in the Room? North Korea and the Myth of ROK/U.S. “OPCON Transfer”

By David S. Maxwell

In light of the actions of the Kim Family Regime over the past year, the election of a new President of the Republic of Korea (ROK), and the reelection of the U.S. President, it is an appropriate time to take a critical look at the military strategy of the ROK/U.S. Alliance and ask some difficult questions, the most important being: Should the ROK/U.S. Alliance continue the so-called “OPCON transfer” – which is actually the dissolution of the ROK/U.S. Combined Forces Command (CFC) – in the face of the continued existential threat posed to ROK by North Korea? Toward this end, this essay suggests various modifications of ROK/U.S. Alliance strategy, including an argument as to why the ROK/U.S. CFC should not be dissolved.

The first action that should be taken by the Alliance is for both Presidents in their first meeting on May 7, 2013 to reaffirm the 2009 Joint Vision Statement, which established both countries’ desired strategic end state as the peaceful unification of the Korean Peninsula.[1] Although the degree to which unification will be peaceful will be dictated by North Korea’s decisions and actions, it is nonetheless imperative that the end state of unification be articulated in both word and deed. This provides the strategic guidance for all future Alliance actions.

My most important military recommendation is to cease the OPCON transfer and transformation process as it is currently planned. The ROK/U.S. CFC must remain intact. The ROK/U.S. CFC is the key to deterring North Korea. It must remain the foundation of the Alliance, and support all other actions by the instruments of national power. Without the demonstrated strength of this military organization, the North is unlikely to remain deterred from large-scale conflict as it has been for the past six decades. Furthermore, this action would provide one of the strategic sticks that South Korean President Park Geun-hye is looking for to support the implementation of her new policy of “trustpolitik.”[2]
Halting the transformation process will not only send an extremely important and powerful message to the North, but will also likely result in conserving resources by both the ROK and U.S. governments. Although there are many sunk costs with the development of facilities in Camp Humphreys and other installations in South Korea, an immediate decision to suspend the process could allow both the ROK and U.S. governments to shift resources to invest in critical military capabilities. For the ROK, rather than investing in independent warfighting capabilities that the U.S. military already possesses, it could focus its resources on developing its critical capabilities and building on its strengths, particularly in its ground maneuver forces that are so critical to success in confronting either regime collapse in the North or prosecuting a war with it.

Although the ROK/U.S. CFC should remain intact[3], there is one action that should be taken to transform it. In 2015, rather than dissolving the ROK/U.S. CFC, a South Korean General should take command with a U.S. General as Deputy Commander. This will send a very important signal to the North and the region, and will be critically important if and when the ROK/U.S. CFC operates in North Korea during collapse or war; it will allow unification efforts to proceed with ROK military leadership in command, thus providing long-term legitimacy for operations within the north of the Peninsula.

Some will argue that the U.S. should never agree to allow its forces to be under foreign command. However, due to the structure of the Alliance, the Korean commander of the ROK/U.S. CFC would answer to the Military Committee, from which he would receive strategic guidance and direction, just as would the current U.S. military commander. This is why the “OPCON transfer” is a myth. The Military Committee consists of both ROK and U.S. National Command and Military Authorities (NCMA). The ROK and U.S. governments in effect exercise coequal operational control of the combined warfighting forces. They do so now with a U.S. commander and they would continue to do so with a Korean commander.

Although it may seem counterintuitive to some, a Korean commander would further reinforce the perception of a strong Alliance, as the U.S. would be stating through its actions that it has full trust and faith in the leadership of a Korean commander. It would also illustrate how the Alliance has evolved to a level of coequal partnership, with each nation bringing the strengths of their respective military forces to the command, thereby also overcoming the other’s weaknesses.
Another action to reinforce the strength of the Alliance as well as enhance the interoperability of ROK/U.S. forces would be to return U.S. forces to active patrolling of the demilitarized zone (DMZ), which was suspended in the 1990s. However, rather than establish a U.S. sector, like that which previously surrounded the Joint Security Area of Panmunjom, U.S. forces would be integrated on a rotating basis throughout the entire 250 kilometers of the DMZ.[4] This would send a powerful message of Alliance resolve. It would also provide an excellent training opportunity for U.S. ground combat forces. Whether U.S. forces are permanently stationed there for one year or a rotation program is implemented, they would have a day-to-day combat patrolling mission focus. In this scenario, there would be the added benefit that U.S. ground combat forces departing ROK would be at a high state of small unit combat readiness. This would serve the U.S. Army well in a post-Iraq and post-Afghanistan operational environment.

The U.S. must also continue to improve execution of and support for the Proliferation Security Initiative (PSI), the U.S.-led initiative of the international community focused on preventing North Korea from proliferating weapons of mass destruction (WMD), missiles, and associated technology. The U.S. must encourage other nations to join the initiative and should assist participants in executing operations to interdict North Korean weapons proliferation efforts. Law enforcement and military capabilities must be brought to bear on this problem. Effective PSI operations can put immense pressure on the regime and cut it off from a significant amount of hard currency gained through weapons proliferation. Again, this can provide another strategic stick to support President Park’s policy of “trustpolitik.”

The ROK/U.S. Military Alliance should also focus efforts on a comprehensive influence campaign to target multiple audiences in North Korea. It should use the full range of media and information technologies available to provide information to the general population in order to lay the groundwork for operations in the complex post-war or post-regime collapse environment in which ROK/U.S. Alliance forces will likely operate. Defector organizations with their limited resources have shown that it is possible to get large amounts of information into North Korea; these efforts should be supported and expanded. An influence campaign must target the regime’s second-tier leadership, in order to influence them to maintain the coherency of the security forces to try to prevent both the loss of control of WMD as well as the rise of a resistance force during or after war or regime collapse. The second-tier leadership will be critical in the unification process, and deliberate plans to coerce and/or co-opt them must be in place.
The ROK/U.S. Alliance must continue to focus attention on the human rights abuses perpetrated by the Kim Family Regime, and should maintain pressure on the regime in all available venues to draw attention to the oppression of the North Korean people. Together, the ROK and U.S. governments should work to establish and lead a community of interest that will focus on the suffering of North Koreans and maintain international visibility on the human rights atrocities committed by the Kim Family Regime.

Finally, U.S. and ROK national intelligence services, diplomats, and law enforcement agencies, ideally in cooperation with other members of the international community, must work to interdict the regime’s so-called “Department 39”, which is responsible for the regime’s global network of illicit activities that produces the hard currency and luxury goods that keep it in power. A global effort must be made to target this network and coerce, co-opt, and, when necessary, incarcerate its members. Co-opted members could provide for a wealth of intelligence information about the regime. Co-opted members could also be employed in a post-war or post-collapse scenario.

Recent talks in Washington between ROK and U.S. defense officials affirmed that the transformation process is on track and will be executed in accordance with the current plan.[5] However, U.S. Ambassador to Korea Sung Kim also recently and realistically stated that the transformation would not occur if the ROK military is not ready in 2015.[6] With the election of President Park, there is an opportunity to undertake a realistic assessment of the way ahead for the ROK/U.S. Military Alliance.

The North poses an existential threat to the ROK, and whatever happens on the Korean Peninsula will have global repercussions. To be prepared for war or regime collapse and, more importantly, to deal with the aftermath, the Alliance must begin active preparations now and cease squandering scarce resources on transformation. Most importantly, the ROK/U.S. Combined Forces Command should not be dissolved but should instead be strengthened. While no one can predict what will eventually happen on the Peninsula, the two most dangerous scenarios, war and regime collapse, are very real possibilities, and the ROK/U.S. Military Alliance will be the most important element of these two countries’ national power that will determine the outcome. The actions of the ROK/U.S. CFC will lay the foundation for the eventual unification of the Korean peninsula, which is the only end state that can bring peace and stability to Northeast Asia.
If the U.S. is serious about rebalancing toward Asia, it must focus its efforts on the most dangerous place in the region.

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By Andrea Clabough


Boot clarifies his purpose in writing this volume in his introductory section. As the first pages make clear, *Invisible Armies* is not intended to be a piece of academic scholarship in the traditional sense, nor, as he emphasizes, is it meant to justify or delegitimize the actions of the paramilitary organizations, leaders, and nations that he covers. Although he argues that there exists a set of crucial trends in unconventional warfare that are illustrated by the examples and cases he offers, he freely admits that his
aim “is to simply tell a story that has never been well-told and to tell it as engagingly and even-handedly as possible.” This volume, therefore, is meant to be informative and interesting, not persuasive in the sense of a traditional scholarly piece. The framework, however, is still extremely comprehensive and certainly ambitious; *Invisible Armies* encompasses over 560 pages, with a useful appendix and an additional 100 pages of footnotes and bibliographical information. The included cases are thoroughly-researched and related assertions are clearly supported.

Despite its considerable length, *Invisible Armies* offers clear and cogent analyses of Boot’s chosen cases that are woven together into a highly readable and convincing narrative. Boot begins with historical examples from Mesopotamia, the ancient Mediterranean empires, and even ancient China. A particularly convincing and refreshing aspect of Boot’s analysis is his inclusion of numerous atypical cases of unconventional warfare less frequently discussed in the prevailing literature on this topic. In particular, his inclusion of cases such as the Peninsular Wars and the Ku Klux Klan’s actions during the American Reconstruction period add depth to his analysis. In other words, Boot strives to make *Invisible Armies* something different from the numerous existing books on counterinsurgency. He argues, for example, that conventional notions of “Eastern ways of warfare”, i.e., guerilla warfare as a concoction of Eastern theorists like Sun Tzu, are tremendously oversimplified. As a counterargument, Boot seamlessly weaves Eastern and a variety of other non-Western examples into his analysis to prove his larger thesis: that unconventional warfare throughout history can be connected by overarching themes that, while subject to degrees of evolution over time, are visible and relevant globally even today. These larger themes include the prevalence and persistence of “small wars” throughout history, common threads such as outside support among the most successful examples of insurgency, and the importance of intangibles such as legitimacy among both insurgents and counterinsurgents.

Boot likewise carefully acknowledges and where necessary emphasizes the role of broader historical trends in the cases he examines. His use of categories such as “Liberty or Death: The Rise of the Liberal Revolutionaries” to disaggregate his examples effectively places these conflicts within important and appropriate historical frameworks. In one section, for example, Boot focuses on Enlightenment-era conflicts from the seventeenth to the nineteenth century that were generally grounded in the dominant intellectual trends of the era. In this sense, *Invisible Armies* is relevant not just for the relatively narrow band of students in the security studies or international relations fields, but serves
as a bridge between both these fields and the broader disciplines of history and political science more generally. The potential audience for this volume, therefore, is as broad as the work itself.

However, the breadth of *Invisible Armies* presents some challenges. The work appears to alternate its orientation between categorical organization (mostly heavily applied in the latter half of the volume) and a chronological one (which characterizes the first half). This renders an otherwise very readable book somewhat confusing in terms of organization, and is likely an unavoidable aspect of attempting to cover such broad swaths of history in such a cogent manner. Additionally, while certain examples are standard and expected in such a work (e.g., the Algerian War of Independence, the Vietnam War, and others) and some make unique contributions to the analysis (e.g., the Haitian War of Independence and the Malayan Emergency), some included cases seem to be less useful for the broader framework of analysis (e.g., the Huk Rebellion in the Philippines). In this respect, the breadth of the work, while impressive, adds information in places while not substantially advancing the author’s arguments.

Throughout the volume, Boot repeatedly emphasizes “lessons learned” from his chosen conflicts and even concludes with a twelve-point chapter of “Implications”. Although all of these implications, both in this chapter and throughout the work, are well-supported and convincing, the analyses and recommendations themselves are not particularly unique or surprising for students of unconventional conflicts. His emphasis on outside support, legitimacy (for both insurgent groups and counter-insurgents), and the ineffectiveness of conventional tactics against unconventional threats is fairly well-trodden territory. His more innovative recommendations, particularly his ending note on the evolving role of technology for “invisible armies”, are more interesting and suggest promising paths for future research in the field of unconventional conflict.

*Invisible Armies* offers a unique contribution in the scope of its analysis and the author’s ability to condense major trends across a range of historical and modern cases into persuasive trends. Furthermore, it is both applicable and useful across a broad range of social science fields, an unusual achievement for works in this subject area. Although this volume is not – and was not designed to be – a transformative piece on counterinsurgency, it is an expansive and highly relevant synthesis of unconventional conflicts, past and present.
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