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Program on National Security
at the FOREIGN POLICY RESEARCH INSTITUTE

Foreign Fighters, Sovereignty, and Counter-Terrorism: Selected Essays

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Managing Director, Program on National Security

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About FPRI

Founded in 1955, the Foreign Policy Research Institute is a 501(c)(3) nonprofit organization devoted to bringing the insights of scholarship to bear on the development of policies that advance U.S. national interests. We add perspective to events by fitting them into the larger historical and cultural context of international politics.

About FPRI's Program on National Security

The end of the Cold War ushered in neither a period of peace nor prolonged rest for the United States military and other elements of the national security community. The 1990s saw the U.S. engaged in Iraq, Somalia, Haiti, Bosnia-Herzegovina, Kosovo, and numerous other locations. The first decade of the 21st century likewise has witnessed the reemergence of a state of war with the attacks on 9/11 and military responses (in both combat and non-combat roles) globally. While the United States remains engaged against foes such as al-Qa`ida and its affiliated movements, other threats, challengers, and opportunities remain on the horizon.

The FPRI's Program on National Security examines contemporary and emergent threats and opportunities to American security through a wide aperture. In particular the program focuses on:

- American grand strategy
- The contemporary and future global geostrategic environment that effect the U.S. and its interests
- The ends (strategies), ways (organization and methods of force employment), and means (force structures and capabilities) that impact the use of military force
- Counterterrorism and homeland security
- Development, diplomacy, and informational issues that contribute to the holistic implementation of strategy.

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THE FOREIGN FIGHTER PROBLEM: A CONFERENCE REPORT

By Tally Helfont, Rapporteur

Tally Helfont is a research fellow on Middle East-related issues and radical Islamic movements at the FPRI.

FPRI's Program on National Security held a conference on the foreign fighter problem, July 14-15, 2009, at the National Press Club in Washington, D.C. **Michael Horowitz**, **Michael P. Noonan**, **Mackubin Thomas Owens**, **Harvey Sicherman**, and **Stephanie Kaplan** served as panel moderators. Nearly 100 individuals from academia, government, NGOs, the media, the military, and the public attended, and another 180 individuals from around the world participated by webcast. Audio and video files of the proceedings are posted on FPRI's website at www.fpri.org/research/nationalsecurity/foreignfighters.

The papers presented at the conference will be published in *Orbis* and other outlets.

The Program on National Security thanks **W.W. Keen Butcher**, **Robert L. Freedman**, Hon. **John Hillen**, **Bruce H. Hooper**, Dr. **John M. Templeton, Jr.**, and others for their support of its activities and this conference.

The views expressed herein are those of the speakers and should not be construed to represent any agency of the U.S. government or other institution. What follows is a summary of the keynote address, major panel presentations and discussions.

KEYNOTE ADDRESS

Former Ambassador **Dell L. Dailey** (Lt. Gen. U.S. Army Ret.), the U.S. Department of State's Coordinator for Counterterrorism (2007-09), delivered the conference's keynote address. Ambassador Dailey opened by emphasizing two themes: global partnership and global engagement. He noted that, "our challenge is to overcome cultural and political differences to inspire a sincere commitment to end a threat that we all share." He reviewed various aspects of the problems that would be the topics for panel discussion, emphasizing in particular the requirements for successful collective action. Amb. Dailey closed by urging participants to use the conference as a "launching pad for regional and state dialogue."

PANEL 1: The Foreign Fighter Phenomenon

David Malet, an Assistant Professor of Political Science at Colorado State University–Pueblo, cited four diverse examples, historical and contemporary, of the phenomenon to support his assertion that "not all foreign fighters are Islamic Fundatmentalists, and also foreign fighters are not a new phenomenon." Malet argued that current recruitment mechanisms of insurgents in Iraq and Afghanistan are not unique to those specific conflicts, but rather stem from a combination of established messaging practices and targeted appeals by transnational groups.

Malet explained that local insurgents, typically the weaker party in civil conflicts, attempt to recruit foreign fighters in order to "broaden the scope of conflict" and to maximize their chance of victory by garnering outside support in the form of manpower and specialists. He provided a formula for transnational recruitment based on his review of records from a spectrum of different historical cases. He argued that insurgents recruit foreign fighters by framing distant civil conflicts as posing a direct threat to the transnational community to which the recruit is closely affiliated. This affiliation, whether ethnic, religious, or otherwise, ties directly into the recruitment messaging because it emphasizes the necessity of defensive mobilization and action in order to preserve the affiliated community. Malet notes that foreign fighter types are often quite active in institutions of that community, but tend to be "marginalized within their broader polities." These social structures make them more susceptible to selective targeting by recruiters.

Malet made clear that the foreign fighters are cause for serious concern for three key reasons: (1) they have been increasing in relative numbers, (2) they learn from one another, gaining tactical expertise with every passing conflict and are becoming more dangerous, and (3) transnational foreign fighter movements tend to be more successful.

Malet concluded by offering specific policy suggestions. Malet cautioned that threatening foreign fighters with violence would be inherently ineffective considering their call to arms already stemmed from a perceived existential threat to their in-group. He suggested instead that preventing recruitment would be a matter of marginalizing the centrality of the transnational group's social structure and narrative. He also stressed the importance of encouraging the reintegration of

potential foreign fighters into their home society by bolstering civic identity institutions and establishing alternate identities for them as citizens, therefore removing the rationale for their participation in foreign conflicts.

Mary R. Habeck, an Associate Professor in Strategic Studies at Johns Hopkins School of Advanced International Studies (SAIS), agreed with many of Malet's remarks, finding the recommendations for preventing recruitment specifically compelling. Habeck, however, contended that there was a distinction between recruitment based on ethnicity or political views and recruitment based on religion. She argued that the latter is often more difficult for governments to deal with, specifically because they lack the legitimacy to challenge religiously-sanctioned behavior. Habeck noted that this is a particular problem in non-Muslim majority governments today.

Citing what she referred to as a "fight over authenticity in religion," Habeck argued that competing groups in the Middle East are engaged in a struggle to define the "true, authentic Islam." She explained that this struggle is not about something new, but rather about calling believers back to their true roots, to the old, established tradition. She said that "the fight uses words that many Muslims find appealing" and that resonate with the community including *jihad*, *muhajiroon*, *ansar* and that these terms have been rebranded to suit the recruitment needs of these groups.

Habeck further suggested that the current Islamic foreign fighter phenomenon is distinct from other conflicts because the major appeal is in the next life by means of martyrdom. As opposed to seeking out real gains in the current struggle, it is enough to have participated and died in doing so. She continued that when the primary motivators are avoiding hell and attaining paradise, it becomes more difficult to combat.

Erin Simpson, formerly on the faculty of the Marine Corps' Command and Staff College, found that many of Malet's conclusions illustrated the need for additional research on the subject. She raised some specific questions and highlighted key arenas in which additional data would be pertinent. Simpson suggested that governments should interview detainees in systematic fashion in order to better understand the motivations of foreign fighters and the nature of the networks that gained them passage to the conflict zones.

Simpson raised the question of whether foreign fighters change the character of the insurgency. Specifically, she asked: (1) "What is the relationship between those foreign fighters and the local civilian population?" (2) "Do we have reason to believe that foreign fighters interact with that local civilian population in a different manner than local fighters," both generally speaking and in Iraq specifically?, and, (3) Are foreign fighters more effective?

Simpson suggested that in certain instances, as was the case with the Sahwa or "awakening" in Iraq's Anbar Province, foreign fighters are more effective in the conflict's beginning but that their relationship with the local population erodes over time, causing the latter group to rise up against the former. Simpson argued that this may be a potential crack to be exploited by altering the messaging in a way that the local conflict is delegitimized by the presence of foreign fighters.

Clinton Watts, a consultant for Innovative Analytics and Training, agreed with most of Malet's remarks and spoke specifically about the issue of recruitment tactics. Malet argued that foreign fighter recruitment techniques are not so different from ours. Watts described the parallels between the stock footage of al-Qaida training exercises featured on American television *ad naseum* in 2003 and the U.S. Army's "Be All You Can Be" recruitment videos. He said that the video featured "totally different ideology" but "mirrored what they thought it was to be a fighter." He explained that the combination of familial - social promotion of such conflicts coupled with the saliency of these recruitment tactics has proven to be a successful formula worldwide. Watts said that just as the best recruiter of a Marine is a former Marine, the same goes for foreign fighters. He reiterated Malet's assertion that messaging is extremely important and can be consistent even when ideology differs in disparate conflicts.

Watts used a compelling analogy to emphasize the importance of transnational, community-based affiliations in which he argued that one would be more likely to support a fellow sports team supporter encountered abroad than one's own neighbor with whom one has spoken with only on occasion. Owing to the strength of such ties, Watts argued that it is crucial for policy makers to neutralize the family and social network influence, specifically in areas known to generate high numbers of recruits.

PANEL 2: Foreign Fighters and Sovereignty

Major **Ian Bryan** of the Air National Guard and the School of Advanced Air and Space Studies, argued that while sovereignty creates a serious obstacle to reducing the foreign fighter problem, it also provides great value to the United States and her allies. He went on to say that disregarding sovereignty not only has the potential to degrade U.S. legitimacy but also to chip away at that pillar of the international system.

Bryan provided a definition of what he considered to be foreign fighters, including in this group their logistical support, such as financiers and facilitators. In arguing that interdicting foreign fighters before they reach the battlefield is of the highest priority, Bryan conceded that this feat posed a sticky set of implications for sovereignty. He then expounded on the origins of sovereignty as an international norm, tracing it back to the Peace of Westphalia in 1648. Bryan explained that respecting sovereignty is intimately tied into a country's perceived legitimacy and as Bryan said, "perception matters." One of the most obvious reasons to preserve legitimacy is because "a foreign policy perceived as legitimate is usually the best way for America to get what it wants from the world." Another, and perhaps more nuanced reason, to preserve legitimacy is in order to prevent the corrosion of international law, norms, structures and institutions that otherwise serve U.S. interests.

Bryan employed two examples in which sovereignty had been transgressed, yet yielded polar results. The first set related to operations conducted by the United States in Pakistan, which arguably diminished Pakistan's ability to deal with the transnational threat and cooperate with the United States. The second related to NATO and its involvement in the Kosovo conflict; a case is which sovereignty was disregarded yet yielded more favorable results. Bryan's conclusions: not all means of transgressing sovereignty are equal and like-minded governments might bind together again, as was the case with NATO in Kosova, but the result may be unfavorable to the broader international community.

In light of these assessments, Bryan suggested that effective long-tem action against foreign fighters, terrorist, and a host of emerging transnational problems requires both international cooperation and a set of suitable legal doctrines. He urged that the international community work to amend legal doctrine in order to adapt to issues like the foreign fighter problem.

Colonel **Mackubin Owens**, USMCR (ret.), Editor of *Orbis* and Associate Dean of the U.S. Naval War College, agreed with much of Bryan's remarks, touching specifically on "the need to balance the requirement to respond to threats from foreign fighters who seek sanctuary or transit through states" and to maintain "the very cornerstone of the international order which is sovereignty." Owens concluded from Bryan's comments that a new geopolitical reality has emerged and therefore argued that "we need to change strategy."

Owens offered that, in light of the current foreign fighter threat, perhaps it should "be our policy to respect the sovereignty only of those states that can govern legitimately and effectively." As for "ungoverned spaces," Owens suggested that "it is sometimes necessary to intervene; to violate what otherwise [can] be seen as the source of problems hiding behind this issue of sovereignty."

Jakub Grygiel, an Associate Professor at The Paul H. Nitze School of Advanced International Studies at The Johns Hopkins University, agreed with some of Bryan's remarks but stressed that a "clear operational urgency to break the sovereignty of another state in order to eradicate or perhaps mitigate the flow of foreign fighters" exists. He acknowledged, however, that, as Bryan mentioned, there are serious, long-term repercussions and implications of doing so.

Grygiel suggested that there are three different types of sovereign actors: (a) those who support foreign fighters, like Iran, (b) those who oppose foreign fighters and will kill them, like China, and (c) those who are weak and have little or no control over their own territory, like Pakistan and Somalia. He followed that "just making that distinction … changes and alters our calculation of the costs and benefits of breaking sovereignty because they will be different in the different cases." Grygiel also noted that, as in the case of Russia issuing Russian passports to South Ossetian citizens in 2008, there are instances in which countries deliberately undermine sovereignty.

Grygiel also made the point that while as Bryan suggested, there are "clear costs of violating sovereignty," "there are also clear costs of not breaking sovereignty—the clear costs of an overly respectful attitude towards sovereignty." Grygiel explained that "respecting sovereignty too often could also erode our legitimacy" and that since foreign fighters do not accept sovereignty, it may hinder our ability to defend ourselves and to understand the problem if we cling to this concept too much. He also commented that perhaps "our defense of sovereignty is not always why people support us."

Michael P. Noonan, Managing Director of FPRI's Program on National Security and moderator of this panel, raised the point that holding the actual country that hosts foreign fighters accountable for what occurs within its borders could ameliorate part of the problem. While Noonan conceded that foreign fighters are indeed difficult to coerce, he suggested that since states are easier to coerce, it could prove prudent to correlate the two in order to exert pressure.

PANEL 3: Foreign Fighters and their Economic Impact
Matthew Levitt, Director of the Stein Program on Terrorism, Intelligence and Policy at the Washington Institute for Near East Policy, addressed the topic of foreign fighters and their economic impact through a detailed case study of Syria and al-Qaida in Iraq (AQI). Levitt began by stating a simple fact that "running an insurgency is an expensive endeavor" and that a significant infrastructure is required in order to sustain an international terrorist network. He further noted that "The foreign fighters' use of third-party countries for training and fundraising and transit is not merely an operational phenomenon—it's an economic one as well." Syria, according to Levitt, is a classic example of such a country and AQI has long benefited from a network of associates operating within its borders.

Levitt explained that in Syria, foreign fighters do not enjoy state sponsorship in the classical sense, but that the Syrian Government's refusal to eradicate their activities and their presence has given de facto support. In fact, Levitt asserted that the local Syrian economy along its Iraqi border has not only been bolstered but is completely entwined with foreign fighter activities and the revenues they generate. Likewise, Levitt asserted that "the foreign fighter pipeline in Syria is believed to have benefited the local populations on both sides of the Syria/Iraqi border in the form of jobs, increased cash flow into the local economy [through the] purchase of supplies, staples and rents." Because Syria does not have the economic means currently to replace the financial padding provided by foreign fighter smuggling and bribes, he explained that it is unlikely to stamp out the foreign fighters lest it cause serious economic unrest within its own territory. Further, if Syria were to crack down decisively on foreign fighters, it would likely have to defend itself against a now angry, trained, and armed group residing within its borders.

Levitt added that aside from the economic benefits that Syria enjoys by hosting foreign fighters, it also uses the phenomenon to generate political clout. According to Levitt, Syria's tolerance of foreign fighters can be seen as an extension

of its foreign policy and is intended to further its interest in Iraq. He noted that for every example of Syrian assistance in policing the borders, there is another example of how it has hindered it. During much of the Bush Administration, Syria's support of foreign fighters or its turn-a-blind-eye policy was intended to undermine Coalition efforts in Iraq. Likewise, Syria's oft criticized relationship with Iran and its surrogates has been somewhat offset by its support of the Iraqi insurgency. Nevertheless, Levitt emphasized economic considerations dominate Syria's tolerance of foreign fighter infrastructures existing within its borders.

In light of these conclusions, Levitt offered several policy suggestions on how to combat this threat. He suggested that a key element would be to create "a plan to backfill the local economies with jobs and services to replace the losses sure to follow the shuttering of the smuggling economy." He added that an anti-corruption and civil society campaign could be beneficial in breaking the traditional, deeply ingrained culture of bribing. He also suggested that diplomatic efforts be made to address the underlying policy concerns that have led Syria to support insurgents and the like in the first place. Levitt's final caveat was that any efforts made on the Syrian side would only bear fruit if they were duplicated on the Iraqi side.

Brian Fishman, a Fellow with the Combating Terrorism Center at West Point, agreed with many of Levitt's remarks. He provided a relevant historical precedent for Syria's current stance vis-à-vis border smuggling, reminding the audience that during the Saddam-era, he too overlooked smuggling along the Iraqi–Syrian border in order to curry favor with the local tribes. Fishman explained that there are different kinds of smuggling that need to be addressed; official borders are different from the un-policed borders. In the former case, as Levitt asserted, bribing government officials is the main way to conduct business. In the latter case, smugglers have to deal with local tribes. As for AQI, Fishman explained that initially the group stepped on some toes, but eventually learned to work with the locals to take advantage of their well tried avenues of smuggling. He suggested that this is a potential crack to exploit.

Fishman sought to make additional distinctions relevant to the foreign fighter phenomenon. He referred to the fact that foreign fighter smuggling and other activities occur regularly on multiple borders, citing not only the Syrian–Iraqi border but also the very critical Saudi–Jordanian and Libyan–Egyptian borders. Additionally, Fishman sought to clarify that "there have been at least two waves of foreign fighters in Iraq," the former of which was more experienced than the latter. The oft-referenced Sinjar records, which have offered a rare glimpse into this issue, refer only to the second wave. Fishman deduced from this shift that the conflict has diminished the quality— if not the quantity—of foreign fighters.

Christopher Hewitt, a Professor of Sociology at the University of Maryland - Baltimore County, took issue with some of Levitt's assertions, beginning with his emphasis on funding as being of primary importance to the foreign fighter phenomenon. "I've been looking at terrorist campaigns for a long time," Hewitt averred, "and I would argue that the most important factor for a terrorist group is social support. If you have social support, you can get funding."

He also argued against the portrayal of the insurgency in Iraq as homogeneous, which, in his view, ignored the ethnic, religious, and ideological differences. He explained that while a Sunni nationalist insurgency was the original incarnation of fighting against the U.S. invasion, it became a religious, sectarian fight under Zarqawi. He asserted that although there was a tactical alliance between the two groups, it later fell apart because the foreign fighters tried to impose their view of correct Muslim practice on the local Iraqi Sunnis. Hewitt added that this very sentiment, to an extent, contributed to the Anbar Awakening.

Lastly, Hewitt clarified that AQI is to be held responsible first and foremost, not the Syrian networks. He said that, contrary to Levitt's portrayal of the relationship, the former creates the need for the latter. He ended by strongly rejecting the assertion, which he attributed to Levitt's paper, that "if only the Syrians would behave properly and tighten up border security, all would be well-- that would be the end of the foreign fighter problem."

Lieutenant Colonel **Basheer Ilyas**, USA, the Joint Staff Action Officer for Counter Threat Finance (CFT), strongly agreed with Levitt's remarks, specifically commending him on his emphasis on "the impacts on the populace, the impacts on the fighters themselves, and also the political leadership." He drew a parallel between organized crime and terrorist groups, arguing that both raise, store and transfer money in a similar fashion. However, Ilyas explained that while "the illicit financial networks represent a significant strength" they "equally represent a critical vulnerability to exploit."

Ilyas agreed with Levitt that targeted financial sanctions are highly beneficial but conceded that the tool is often compromised by the simple fact that the people who are sanctioned are in the best position to evade them. "As we designate one entity, another pops up under a different name with the same nefarious characters behind the wheel," warned Ilyas. Nevertheless, he added, "the importance and relevance of targeted financial sanctions… remains significant." Publicizing the names and transgressions of certain individuals, otherwise known as the "name and shame tactic," is effective in discouraging others from doing business with designees for fear of repercussions. "Public designations cause targets to resort to other less secure, costly mechanisms for moving assets globally."

Ilyas concluded by saying that "We may not be able to destroy their [foreign fighter] pipeline, but maybe we can seriously damage it and force our adversaries to spend financial and human resources to defend themselves."

PANEL 4: Case Study: Syria and the Foreign Fighter Problem
David Lesch, a Professor of Middle East History and Chair of the Department of History at Trinity University in San Antonio, TX, continued the discussion on Syria and the foreign fighter problem, albeit from the perspective of Syria's foreign

policy considerations. Lesch, who has interviewed President Bashar al-Assad on several occasions, offered unique insight into Syria's behavior regarding foreign fighter activities taking place within its borders.

In order to understand Syria's motivations, Lesch urged the audience to consider things from the Syrian perspective, beginning first with the reminder that Syria has been "virtually surrounded—after of course, the U.S. invasion in 2003—by actual or potential hostile forces." Lesch recounted that the Bush administration had been angered, to say the least, about Syria's lack of "cooperation in stemming the flow of foreign fighters into Iraq." On the heels of 9/11, Lesch recapped, the Bush administration gave the Assad regime an ultimatum, compelling it to choose sides. Lesch explained that Syria had a practiced history of walking a fine line between the West and the rest, teetering in one direction or another as it fit its foreign policy needs. Lesch conceded that Assad "did not adequately adjust to the important underlying changes in American foreign policy after 9/11," and assumed the same old rules still applied. These misunderstandings, he said, led the Bush administration to step up its anti-Syria rhetoric and led Syria to go further in its defiance of the Bush policies.

The line was, therefore, drawn in the proverbial sand and Syria sought to counter U.S. efforts in Iraq. Lesch explained that Syria went about this strategy "in an asymmetrical fashion that foiled perceived U.S. threats yet did not incur the wrath of the United States in the form of a full-fledged military response." Syria also had additional cause to turn a blind eye to foreign fighter activities due to the domestic constituency in the country that "identified strongly with the Iraqi insurgency." Likewise, Lesch pointed out that Assad's then weak grip on power prevented him from doing Bush's bidding and that by not doing so, he was able to take advantage of a threatening climate to consolidate his power and crack down on civil society and democracy activists. Assad also wanted to avoid the "possibility of insurgent/jihadist blowback from Iraq into Syria" similar to what happened following the Afghan mujahideen resistance in the 1980s.

In short, Lesch argued, Syria was motivated by a series of strategic considerations that led it to behave the way that it did. He therefore suggested that it would be in the United States' best interest to create a climate in which it is strategically beneficial for Syria to work with us rather than against us. He also stressed the prudency of assessing Syria's capability to fulfill the extent of American demands prior to making them, citing specifically the plausibility of Syria reigning in Hizballah, reconciling Hamas and Fatah, helping vis-à-vis Iran, stabilizing the situation in Iraq, and preventing foreign fighters from entering Iraq via Syria.

Murhaf Jouejati, a Professor of Middle East Studies at the National Defense University's Near East South Asia Center for Strategic Studies, agreed with many of Lesch's remarks. He sought to underline two major points regarding Syria's character: "Syria is a rational actor" and "Syria does not fear democracy." Jouejati offered additional strategic motivations for Syrian behavior, however, this time, to explain why Syria's tacit cooperation with foreign fighters was not more overt. For example, he explained that it has been in Syria's interest to have a whole and stable Iraq on its border for several reasons, including the negative impact the alternative would have on Syria's Kurdish population. Likewise, Jouejati suggested that, overall, "U.S. and Syrian interests on Iraq converge far more so than Syrian-Iranian interests although Syria and Iran have a strategic relationship." Because of this, he surmised, the current status quo is flexible. Jouejati echoed Lesch's sentiment that Syria can either be brought into the fold, in which case it could help the United States achieve some of its goals in the region, *or* Syria can be pushed out, in which case it could cause many additional problems for the United States.

Andrew Tabler, a Soref Fellow in the Program on Arab Politics at the Washington Institute for Near East Policy, agreed with some of Lesch's remarks but also noted that there is "a tendency, especially early on in the rule of Bashar al-Assad, to frame U.S.-Syrian relations under the Bush Administration as a sort of neocon plot to overthrow the regime." Tabler explained that the hard line taken by the U.S. administration was "in response to what they saw as Syria's troubling behavior against U.S. interests in the Middle East." He made reference to several of Syria's violations of UN sanctions on Iraq at the start of Bashar al-Assad's regime in order to remind the audience of the original source of the strain. He described the Bush-Assad relationship as a Cold War.

While Tabler agreed with Lesch's assertion that Damascus was guilty for selectively hearing what the United States considered to be support for terrorism and that it also misread U.S. intentions, he contended that Assad was completely in control of Syria when he consolidated power. Assad was, therefore, responsible for all of Syrian behavior and ostensibly lost all plausible deniability.

Tabler concluded by saying that Syria has controlled the flow of foreign fighters as a means to gain leverage in the region. The Obama Administration's overtures to the Syrian government, including the return of an American ambassador to Syria, have the potential to entice Assad to stem this flow. Conversely, if these overtures are unsuccessful, we are likely to see the pipeline turned back on at a time where the U.S. is drawing is troops down in Iraq.

PANEL 5: Disrupting the Foreign Fighter Flow

The fifth and final panel of the conference focused on policy prescriptions for "Disrupting the Foreign Fighter Flow." **Barak Mendelsohn**, an Assistant Professor in the Department of Political Science at Haverford College and a new Senior Fellow at FPRI, began the discussion by citing a major difference in today's foreign fighters seen in Iraq, Afghanistan and Somalia. He said that while foreign fighter have often upgraded "local groups by adding commanding skills, by bringing technical, tactical and strategic knowledge and through assistance in training….What is new that we didn't see in the first wave, in the 1980s or 1990s, is today foreign fighters often are suicide bombers. And that's a new phenomenon."

The recognition of this development led Mendelsohn to ask about the importance of foreign fighters to the overall war on terror. Could the role they play be served by locals in their stead? Mendelsohn pointed out that severe "information gaps" exist in our understanding of this phenomenon. Among the questions he asked were: "How many foreign fighters are there?" "How are they divided… between the different jihad arenas?" "Is there any central mechanism that helps to disperse those Jihadis or is it just a matter of opportunity? It depends on the particular local connections, on financial conditions, the ease of travel?"

Nonetheless, Mendelsohn offered a few policy prescriptions. He touched on the need "to find ways to counter the appeal of external causes" and more specifically, "to find ways to offer competing narratives to events in which Muslims are presented as being victimized." He elaborated that there is also a "need to create alternatives for Muslims that want to help their fellow Muslims that they think are oppressed." On the regional level, Mendelsohn cited "the privatization of violence" as a condition that facilitates the foreign fighter institution. He posited, therefore, that "re-establish[ing] the position of the state as an institution that actually serves the interest of the people" would be one way to undermine this institution.

Lieutenant Colonel **Robert Mackey**, USA (ret.), who served as a counterterrorism planner at the National Counterterrorism Center and now works as a freelance writer and organizational historian, continued the discussion from a slightly different perspective. Mackey began by asking rhetorically "what's next five, ten, fifteen years from now?" He then answered that "we need to start looking at the outflow from Afghanistan, from Iraq, from the next battlefield and start trying to get ahead of that power curve to some extent." Referencing some of the Arab foreign fighters in Afghanistan who were later repurposed, he cautioned about the potential for this to happen with this generation's fighter and to plan against it. Mackey therefore pointed out the need to "integrate these people back into those societies in a peaceful way, to reduce the foreign fighter flow before it's ever an outflow." Mackey argued that for the long run, a military solution is not necessarily the solution to stemming the flow and later tracking the outflow of foreign fighters.

Mackey concluded by stressing "conflict management," stating that "the best way to not generate foreign fighters is not to have wars…." He explained that war "gives these people an opportunity to fight. It gives them expertise in their field. It gives them an ability to practice. It's their training center for the next fight." Mackey advocated that "The United States and its coalition partners really need to start working with the partner nations more. To give them the tools they need to fight their internal fight." In his view, "that is the best solution."

Dan Green, a Visiting Fellow at the Terrorism Research Center, touched on yet another aspect of the discussion, focusing not only on *how* we deal with disrupting the foreign fighter flow but *who* deals with it. He said one of the first questions we must ask ourselves is, "informed by our experiences in these different wars of counterinsurgency and with foreign fighters, how might we go about reforming the U.S. government … to deal with this in a sustained way for the long haul?" According to Green, one of the most important steps is to find "the right kind of people who are armed with the right perspective to do this in a sustained way." Green perceived that the short stints in-country of those assigned to counter this problem hinders the capacity to get the job done. Harkening back to the British experience in which individuals spent many, many years abroad, Green argued for abandoning the "mindset of short-term rotations and short-term deployments and really focusing and creating almost a career track, if you will, for people who are armed with political skills." This, in short, will provide us with an enduring capability to counter these types of threats and perhaps prevent them before they fully develop.

Michael Doran, a Visiting Professor at New York University and former Deputy Assistant Secretary of Defense and Senior Director at the National Security Council, began his remarks by relating that the biggest thing he took away from his time in government was the existence of "bureaucratic gaps and seams … between [the] bureaucratic mission and challenge that we actually face out in the field." He went on to argue that the foreign fighter problem, among other things, has led to the militarization of our foreign policy, but only because the gaps and seams caused ownership problems over policy areas. Furthermore, Doran explicitly noted that we lack "the capacity to do political warfare" and that agency roles become blurred when moving from hot wars to situations, as in Syria, requiring similar tactics but more political and diplomatic sensitivities.

CONCLUSION

FPRI president **Harvey Sicherman** summarized the major themes covered in the panels. He recounted that in terms of the foreign fighter phenomenon, the conference addressed "where they came from, how they get there, what they do when they get there, what they do after they leave, and tried to figure out—given the limitations of each of those areas—what might be done about it, including the limitations of the United States government." The conference could not always offer definitive solutions but its work pointed out broad areas of agreement on what we know now and more importantly, what we need to know if we are to grapple successfully with these issues.

Why Foreign Fighters?
Historical Perspectives and Solutions

by David Malet

David Malet is a professor at Colorado State University Pueblo.

Abstract: Insurgencies that recruit foreign nationals to join rebel groups in various civil wars around the globe are a source of growing concern to policymakers. Despite attention focused on recent Islamist groups, foreign fighters are a phenomenon that is neither new nor uniquely Islamic. In conflicts from the Spanish Civil War to the Afghanistan War, insurgencies consistently recruited foreigners by framing the local war as one that threatened a shared transnational identity group and necessitated a defensive mobilization. It is therefore possible to draw lessons about combating their flow through counter-recruitment from a wide array of historical cases.

Foreign fighters pose a challenge to counterinsurgency and peace-keeping efforts in a growing number of civil conflicts. The quantity of insurgent groups that have mobilized transnationally has been increasing in recent decades, both in absolute numbers and as a proportion of the total insurgencies being waged. Transnational recruits are responsible for higher levels of violence than are local insurgents, and insurgencies that manage to recruit foreign fighters are disproportionately successful as compared to other rebel groups.[1] However, what appears to be part of a new phenomenon tied to the growth of militant Islamists is, in fact, nothing new or peculiar to current circumstances. A wealth of available information from past cases suggests how the problem can be managed successfully.

While a good number of studies address how non-state armed groups are successful in recruiting combatants at the sub-national level in civil conflicts, researchers have largely overlooked transnational recruitment. A number of recent works have attempted to analyze the origins and motives of

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[1] See David Malet, *The Foreign Fighter Project* (2007), available at http://www.foreignfighter.com; and David Malet, *Foreign Fighters: Transnational Identity in Civil Conflicts* (2009), available at http://www.proquest.com/products_umi/dissertations.

foreign fighters in the Iraq War,[2] but no one has conducted cross-case studies to determine whether the current recruitment mechanisms of transnational insurgents in Iraq and Afghanistan are unique to those specific conflicts or are comparable to those for foreign fighters in other civil wars. This question is particularly pertinent as the international presence in Iraq winds down and security concerns turn to other areas of intrastate conflict that also feature foreign fighters, such as Yemen and Somalia.

Given the recent international attention to fundamentalist Islamist foreign fighters in these conflict states, it might initially seem easy to imagine what messages recruiters use, and who, how and where they target their appeals. The reality, however, is far more complicated. Consider Ahmed Elomar, the undefeated Australian Super Featherweight boxing champion who, in June 2007, was among several men of diverse nationalities arrested in Lebanon for ties to the Fatah al-Islam militant group. Elomar, whose uncle was one of several Lebanese-Australians arrested in 2005 for plotting an Islamist terror attack in Sydney, had departed two months earlier without informing his friends of his whereabouts. His trainer told reporters that Elomar was "a great bloke" and "he could have been at the wrong place at the wrong time, that is what I am desperately hoping."[3]

How did Fatah al-Islam involve an Australian sports celebrity in the civil conflict in Lebanon? Although the group's leadership might not acknowledge it, they likely employed the same strategy that a group called Haganah used in the late 1940s to recruit a Sephardic Jew of Iraqi descent who grew up in London's Whitechapel slums. The young man's father had abandoned him at an early age, and his mother had arranged for him to cover expenses by finding employment as a hairdresser. She also imparted her identification with anti-Fascist and Zionist political movements to the degree that "the passion that I felt about these issues" led him in 1948 to Palestine to fight for the creation of a Jewish state. After the establishment of Israel, Vidal Sassoon returned to London to resume his career, later using his financial success to found the International Center for the Study of Anti-Semitism at Hebrew University in Jerusalem.[4]

[2] See Alan B. Krueger, *What Makes a Terrorist: Economics and the Root of Terror* (Princeton: Princeton University Press, 2007); Mohammed M. Hafez, *Suicide Bombers in Iraq: The Strategy and Ideology of Martyrdom* (Washington, D.C.: The United States Institute of Peace, 2007); Joseph Felter and Brian Fishman, *Al Qaida's Foreign Fighters in Iraq: A First Look at the Sinjar Records* (West Point, N.Y.: Combating Terrorism Center, 2007). Cerwin Moore and Paul Tumelty, "Foreign Fighters and the Case of Chechnya: A Critical Assessment," *Studies in Conflict and Terrorism* 31.5 (2008), pp. 412 433 examine the fielding of foreign fighters in Chechnya.

[3] Jamie Pandaram and Ed O'Laughlin, "Boxer among Australians Held," *Sydney Morning Herald*, June 27, 2007. Although his father told the press that Elomar had been "brainwashed" by a radical cleric, he was released the following month for lack of evidence. In October 2009, his uncle and four co defendants were convicted of plotting the largest terrorist attack in Australian history.

[4] John Rennie, *London History: 100 Faces of the East End* (2006). United Kingdom, Lulu.com. Available at http://www.eastlondonhistory.com/sassoon.htm.

The same type of recruitment messaging had been used a decade earlier by the Communist International to recruit the son of a wealthy Paris stockbroker in yet another civil war, and he soon used the same method to become a recruiter himself. Despite a reported affliction with Tourette's Syndrome and a conviction for antiquities theft, André Malraux was a noted author when he organized a successful recruitment drive at the Paris Palais du Sport for 100 pilots to join him in flying combat missions for the Loyalist side in the Spanish Civil War.[5] Despite being wounded twice in combat and having violated French neutrality laws, he returned to France to pen a popular novel about the war and later serve in both the French military and underground resistance movement.[6]

Malraux recruited transnational insurgents using the same strategy as a U.S. politician who had risen from a rural Huguenot family to be elected to multiple terms in Congress beginning in the 1820s. Despite the national success of his lecture circuit tour, he told voters during his final campaign that, if he lost, "You may all go to Hell, and I will go to Texas." He fulfilled this threat in January, 1836 leading a score of followers into the ranks of separatists in Mexico. Within two months Davy Crockett would be killed at the Alamo but, the following year, the town of Crockett was incorporated in the newly independent Republic of Texas, which would exist as a sovereign state for nearly a decade.[7]

The Communist nephew of Winston Churchill; the baron whose poetry had made him a leading figure in the Romantic movement; the decorated World War II veteran of the Queen's Own Rifles and heir to a chain of Canadian clothing stores; the scion of a Saudi construction and equity group who would become the icon for generations of insurgents. Each of these individuals, and tens of thousands of other foreigners fighting in modern civil wars were, if not in direct violation of the laws of their own country and the international community, at least acting against commonly accepted norms of military service under which individuals are presumed to owe allegiance to their own country and to fight on its behalf.

Foreign Fighter Recruitment Messaging

Records from across widely different historical cases indicate that insurgencies try to recruit foreign fighters by framing distant civil conflicts as threatening a transnational identity group with which the recruit is closely

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[5] John Carver Edwards, *Airmen without Portfolios: U.S. Mercenaries in Civil War Spain,* (Westport, Conn.: Praeger Books, 1997).

[6] Petri Liukonnen, *The Author's Calendar* (Finland: Kuusankosken kaupunginkirjasto, 2007). Available at http://www.kirjasto.sci.fi/malraux.htm.

[7] Claude Elliot, "Georgia and the Texas Revolution," *Georgia Historical Quarterly* XXVIII (Dec. 1944), pp. 233 48.

affiliated. The nature of the relationship between the insurgents—shared ethnicity or some other tie such as religion—is irrelevant to the logic of transnational recruitment, in which recruiters consistently frame distant conflicts as threats. Recruitment messaging emphasizes the necessity of defensive action to preserve the existence of the community rather than the opportunities for individual gains. Recruitment occurs when local insurgents, who always begin conflicts as the weaker faction because they do not control the instruments of the state, attempt to broaden the scope of conflict so as to increase their resources and maximize chances for victory. However, due precisely to a lack of resources, typically they must motivate outsiders to join them for reasons other than material gain. Recruiters, therefore, frame victory in the conflict as necessary to the interests of outsiders with whom they share connections and who might be credibly convinced by these claims. Ironically, as U.S. forces engaged with transnational insurgents in Iraq to "fight them over there so we don't have to fight them at home," their opponents offered precisely the same argument.[8]

Recruitment efforts therefore typically follow this model:

1) Insurgencies, initially the weaker factions in civil conflicts, attempt to strengthen their forces by obtaining outside support, including manpower and specialists.
2) They target outside groups expected to identify with their cause because of some relation to the insurgents. Sometimes they have success obtaining aid from foreign governments; in other instances they find assistance from non-state groups who share ties of ethnicity, religion, or ideology.
3) Among these transnational groups, the most receptive audiences are individuals who are highly active in the institutions of that community and identify with it closely, but tend to be marginalized within their own polity as part of a minority group. These social bonds, therefore, provide both the means and rationale for participation.
4) Recruiters tell potential recruits that their common group is under existential threat and that their participation is necessary for their survival.

Data from across historical cases indicates that recruitment occurs via the social networks of the transnational communities, and potential recruits are generally closely connected to these identity subgroups rather than to their wider national society. Legal restrictions against recruitment historically have forced insurgent groups to target selectively rather than advertise to mass

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[8] My gratitude to Bob Stoker for succinctly expressing this parallel when I described this project to him.

audiences. The use of social group networks for recruitment also permits recruiters to employ social pressures to join.

In some instances, an obvious tie of ethnicity or other immediate connection between domestic and foreign insurgents exists. In others, recruiters manipulate identities to make them salient, strategically using messaging to activate a sense of appropriate obligation or duty to the common group. When possible, recruiting organizations engage in displacement, broadening the definition of the involved group to a wider pool of potential recruits, thereby enlarging the scope of conflict.[9] Indeed, recruiters engage in operations similar to Madison Avenue advertising executives: Identifying a target audience, creating emotive responses over matters that may have previously seemed of little import, and re-framing the message when initial approaches do not meet goals.

An example of this strategy was evident in Morocco, where Islamist groups recruiting foreign fighters maintained "watchers" at radical mosques and other places where people express anger about Iraq and Palestinians (rather than, notably, Moroccan affairs). The watchers discussed social justice and the duty to intervene on behalf of fellow Muslims with likely prospects, and then subjected them to background security checks and psychological assessments. Those who passed were assigned a handler who smuggled them out of the country on false passports to a training and indoctrination center abroad prior to entering the conflict.[10] In a bit of irony that would probably be lost on the watchers, this procedure is nearly identical to the practices of Communist and Zionist recruiters decades before them.

Lessons of History

This defensive messaging has been a constant across highly disparate cases throughout modern international history. During the Greek War of Independence of the 1820s, Lord Byron and other Britons led a transnational effort to funnel arms and reinforcements to local insurgents based on appeals to liberate the suffering descendants of Classical Greece from Ottoman oppression. A decade later, in the midst of civil war in Mexico, Mexican Freemasons and Gulf business interests funded public recruitment drives in the United States with the stated intention of rolling back creeping military dictatorship in North America. Subsequent recruiting efforts by Texan colonists focused on the need to protect white women against the advances of the Mexican Army. Diaspora Jews were recruited to Palestine with the understanding that if they were unsuccessful in establishing the State of Israel, survivors of the Holocaust would perish and other

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[9] E.E. Schattschneider, *The Semi Sovereign People: A Realist's View of Democracy in America* (Hinsdale, Ill.: Dryden Press, 1960).

[10] Craig Whitlock, "Terrorist Networks Lure Young Moroccans to War in Far Off Iraq" *Washington Post*, Feb. 20, 2007.

Jews would be unsafe in their own countries in the future. The Pan-Arab irregular volunteer force raised to counter them was under orders to "preserve the Arabism of Palestine" or risk destabilizing the Islamic world.[11]

The Spanish Civil War

The 1936 Spanish fascist-supported military coup d'état led by General Francisco Franco against the unwieldy working class socialist-led parliamentary coalition of republicans, communists and anarchists presented an opportunity for both sides to issue appeals for defensive mobilization to broad transnational constituencies. Despite international non-intervention agreements and embargoes, Germany, Italy, and Portugal continued openly to aid the fascist Nationalist faction. And while Stalin was reluctant to engage Soviet forces or even support the Republicans overtly, public pressure from within the Comintern led to the decision to recruit sympathizers as a counter-force. Moscow gave local communist party branches abroad recruitment quotas, and instructed them to focus on trade unions and "democratic organizations."[12] Georgi Dimitrov, the Bulgarian who headed the Comintern at the time, told a U.S. correspondent in Moscow that the hope was to recruit Jewish nationalists, socialists and liberals under an anti-fascist umbrella.[13]

The International Brigades (IB), a term initially used during the Russian Civil War to describe Communist volunteers from abroad, was headquartered in Paris, where Joseph Broz (Tito) used local trade union offices to set up an underground railroad and false passport distribution center where recruits would be sent by organizers abroad before crossing the Pyrenees into Spain. After the outset of the conflict, the quotas provided to party branches were usually higher than could be met. Volunteers who were not party members were subjected to examinations by the Soviet secret police, *Narodnyy Komissariat Vnutrennikh Del* (NKVD), the forerunner of the KGB, and a doctor. During the course of the conflict, the IB produced an estimated 35,000-50,000 recruits, although probably no more than 18,000 were in Spain at any time.[14]

The economic upheavals of the 1930s had made class politics salient in the United States and produced a polarized subculture of radicals. The refusal of corporations to permit workers to organize labor unions, and the resultant clashes with private security and National Guard forces led many in the labor-worker movement to accept that violence would be necessary to achieve political change. Many citizens of the United States who joined the

[11] Haim Levenberg, Haim, *Military Preparations of the Arab Community of Palestine, 1945 1948* (Portland, Or.: Frank Cass, 1993), pp. 41, 43.

[12] Verle B. Johnston, *Legions of Babel: The International Brigades in the Spanish Civil War* (University Park, Pa.: Penn State University Press, 1967), p. 37.

[13] Robert A. Rosenstone, *Crusade of the Left: The Lincoln Battalion in the Spanish Civil War* (New York: Pegasus Books, 1969), p. 88.

[14] Hugh Thomas, *The Spanish Civil War* (New York: The Modern Library, 2001), pp. 439 41.

Communist Party during this period had neither a solid understanding of Marxist theory nor the desire to establish a fully communist state, but were interested in obtaining social justice for the poor and minorities. Meanwhile, fascist groups were already springing up in the United States. Intellectuals, liberals and minorities—and these categories overlapped considerably – had every reason to believe that they would be next if fascism continued to gain momentum. Radicals joined social justice and communist-affiliated groups that reinforced their ideological development, and made contacts that would ultimately serve as the recruitment chain for the pro-Republican Abraham Lincoln Brigade (ALB) during the Spanish Civil War.[15]

As Rosenstone put it, "joining the Communist Party did not produce the motivation to go; rather both actions were reflective of the same impulse." Recruitment efforts therefore did not need to rely heavily upon indoctrination because those who had contact with Comintern-affiliated recruiters were already sympathetic to the aims of the organization. This resulted in so many initial volunteers in autumn 1936 that the U.S. organizing committee quickly shifted its focus from finding recruits to screening out political undesirables, with the goal of "excluding mere adventurers who lacked a political understanding of the anti-fascist struggle."[16] Much of the recruitment propaganda plays explicitly on the theme of sacrifice, and even *The Daily Worker*, distributed as the newspaper to volunteers as well as abroad, reported earnestly on casualties with pieces on how happy foreigners were to "die smiling" for the Republic.[17]

Contemporary letters from IB members and later recollections published in a variety of IB histories reveal that the recruiters were successful in communicating this frame. Radicalized by the Depression, Texas farmer Bob Reed "realized there was an 'us' and a 'them' in America, as well as everywhere else. So when I heard . . . that the 'them' and 'us' were at it with guns in Spain, in what I thought would be the beginning of the final showdown, I decided to go."[18] For some, the conflict was more personalized. Eugene Wolman wrote of his inability to retaliate against oppressive forces at home in the United States, including being struck by policemen. But, in Spain, "here finally the oppressed of the earth are united, here finally we have weapons, here finally we can fight back."[19]

Don McLeod, echoing the sentiments of the pamphlet equating Spanish land reform to conditions faced by U.S. dustbowl farmers, explained

[15] Rosenstone, *Crusade of the Left*, pp. 50 55, 61, 68 73.
[16] Ibid., pp. 64, 119.
[17] Harry Fisher, *Comrades: Tales of a Brigadista in the Spanish Civil War* (Lincoln: University of Nebraska Press, 1998), p. 166.
[18] John Gerassi, *The Premature Anti Fascists* (New York: Praeger Books, 1986), p. 42.
[19] Quoted in Peter N. Carroll, Michael Nash, and Melvin Small, eds. (2006) *The Good Fight Continues: World War II Letters from the Abraham Lincoln Brigade* (New York: New York University Press, 2006), p. 17.

that "in the Depression, we poor people began to identify with other poor people in other parts of the world."[20] Harry Fisher agreed that "in many ways we viewed the Spanish struggle as an extension of our fight against reaction at home . . . We were trade unionists."[21] Hy Katz neglected nationality altogether in his formulation of interest, explaining in a letter from Spain: "I took up arms against the persecutors of my people – the Jews – and my class – the Oppressed."[22] And Carl Geiser stated "I just felt it was my duty as an anti-fascist to go."[23]

ALB Veteran Harry Fisher recalled his induction:

> [They took us] to a place on 2nd Avenue, where a group of doctors examined us and other people questioned us to see if we were really anti Fascist. The committee was very somber and serious. They wanted us to know what we were getting ourselves into. One of them said something like "You know, comrades, this is not just another picket line. This is a matter of life and death." . . . But I could not forget those newsreels of the Nazi storm troopers stomping and spitting on those poor helpless people. I also knew it could happen here. My anger was so strong, I knew I had to go. Fascism simply had to be stopped.[24]

On the opposite end of the spectrum, the Nationalists also managed to attract approximately 1,000-1,500 foreigners into the Spanish foreign legion and Carlist militias. As with other instances of successful transnational recruitment – and despite the fact that the Nationalists were on the offensive throughout most of the war – Franco still portrayed his rebellion as a defensive cause, using the same frame of obligation to protect a transnational identity under threat as did the Comintern.

Just as Abraham Lincoln Brigade recruits understood that Franco must be stopped because oceans would not halt Fascism, so too Irish Brigade recruits were implored in newspaper advertisements to defend the Catholic Church before International Communism could obliterate it. Most of these volunteers were from rural communities "where the Church was the main institution and religious affairs provided the glue of social existence."[25] They heard priests speak of "vile outrages against nuns and made them see that intervention in Spain was a matter of putting down these outrages . . . these people had been whipped up to believe that an attack on churches and priests was imminent in Dublin city."[26] En route to Spain, Irish volunteers stopped in

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[20] Gerassi, *Premature Anti Fascists*, p. 47.

[21] Fisher, *Comrades*, p. 2.

[22] Quoted in Cary Nelson and Jefferson Hendricks, *Madrid 1937: Letters of the Abraham Lincoln Brigade from the Spanish Civil War* (New York: Routledge, 1996), p. 31.

[23] Quoted in Gerassi, *Premature Anti Fascists*, p. 49.

[24] Quoted in Fisher, *Comrades*, p. 16.

[25] Judith Keene, *Fighting for Franco: International Volunteers in Nationalist Spain During the Spanish Civil War* (London: Leceister University Press, 2001), pp. 106, 116 122.

[26] Peader O'Donnell, *Salud: An Irishman in Spain* (London, England: Methuen and Co. Ltd., 1937), Southworth Collection, pp., 245, 255.

Lisbon to hear sermons and visit local convents, where they heard themselves described as defenders of the faith.[27]

Student fascist leaders in the ultra-nationalist Romanian "Iron Guards" went to Spain for the Church as well. Officials of the conservative regime told student leaders that they must join "a worldwide crusade to defend Christ against Satan and his Judeo-Masonic henchmen."[28] A Spanish propaganda pamphlet presented biographies of two Romanian volunteers, with one testifying "Is it not a great spiritual benefit for the afterlife to fall in the defense of Christ? . . . We defend the power that is the source of our nation!"[29]

The Afghanistan War

Defending religion against Communism was the principle argument a half century later in what became another civil war between secular modernizers and traditionalists. This time, the Soviet Union intervened directly to help a faltering client state and led transnational entrepreneurs to launch a recruiting effort that outlasted the conflict itself.

Probably the individual most responsible was Abdullah Azzam, a scholar of Islamic jurisprudence born in West Bank Transjordan in 1941 and recruited in the mid-1950s by a teacher to join the local branch of the Muslim Brothers. Although he served with the Jordanian fedayin irregulars during the Six Day War, Azzam grew disillusioned with the secular Palestine Liberation Organization and launched a career in academia, where he gave influential and widely distributed lectures outlining his philosophy of the need to retake control of Muslim lands. After the Soviet invasion, he relocated to Peshawar, capital of Pakistan's Northwest Frontier Province on the Afghan border, to teach at its university and work in support of the mujahidin.[30]

As the Afghan conflict escalated, Azzam grew frustrated that by 1984 only "ten or twenty men" had come from the outside to fight, and he called upon the Brothers to send mujahidin. When the leadership demurred, preferring to send weapons and humanitarian aid, Azzam publicly broke with the group. Although he would use his connections to Brothers to deliver recruitment sermons, he set out to attract his own volunteer force dedicated to his territorial view of Islam and the need to repel infidels from its historic lands.[31] Thus, while some Arab states encouraged volunteers and paid for

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[27] Robert Stradling, *History and Legend: Writing the International Brigade* (Cardiff: University of Wales Press, 2003), p. 10.

[28] Keene, *Fighting for Franco*, pp., 140, 215, 231.

[29] Los Legionarios Rumanos, Southwest Collection.

[30] Thomas Hegghammer quoted in Gilles Kepel and Jean Pierre Milelli, eds. (2008) *Al Qaeda in its Own Words*. (Cambridge: Belknap Press, 2008) pp. 82 98.

[31] Hegghammer, quoted in Kepel and Milelli, *Al Qaeda*, pp. 94, 95, 99.

the travel expenses of some mujahidin in an effort to rid themselves of dissidents, much recruitment occurred through existing Islamist institutions where Azzam had connections and could disseminate his messaging, and where potential recruits were predisposed to his view of the transnational ummah.

In *Join the Caravan,* Azzam describes Afghanistan as merely one front in a larger war against Muslims, in which fighting is necessary so "that unbelievers do not dominate."[32] In this frame, Muslims in many countries are living in subjugation, with "Muslim women being taken captive in every land," and "they cannot repel attacks on their lives, honor, and properties."

> They no longer have the arrows to shoot; their quivers are empty. During this long period the Afghans hoped their Muslim brothers would come forth in their thousands, that their brothers in Islam would march to their aid, but until today the Muslims have not answered the call, as if they could not hear the mothers crying for their sons, the virgins screaming, the orphans sighing, and the elderly groaning. Many fine people felt it was enough to send their leftovers by way of assistance. The situation is more serious than that, however. Islam and Muslims in Afghanistan live in anguish and must face a grave peril . . .[33]

However, the withdrawal of the Red Army from Afghanistan did not result in the demobilization of the mujahidin. "Some countries simply refused to let the fighters return. They became a stateless, vagrant mob of religious mercenaries."[34] Compounding the difficulty for the recruits was the announcement by Pakistan in January 1993 that mujahidin offices were to be closed and foreigners without valid visas required to leave the country. With Azzam assassinated, the transnational foreign fighter movement needed to regroup and refocus its message of threat against the ummah. The leadership now looked for another conflict that could be easily framed as a one-dimensional war to protect the faithful from murderous infidels, and it soon located one in Bosnia.[35] Subsequently, Afghan alumni spread to other conflicts around the globe or engaged in terrorist activities, while still maintaining the frame of defensive mobilization.

Development of the Idea of the 'Foreign Fighter'

Although transnational insurgencies have existed for centuries, the fact that political scientists have not perceived them as a singular phenomenon is evident from the lack of even a term in the discipline to describe the concept. This

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[32] Abdullah Azzam, *Join the Caravan* (1987), translation available at: http://www.scribd.com/doc/3302728/JOIN THE CARAVAN ABDULLAH AZZAM, pp., 16, 22, 24, 25.

[33] Hegghammer quoted in Kepel and Milelli, *Al Qaeda*, p. 124.

[34] Lawrence Wright, *Looming Tower* (New York: Alfred A. Knopf, 2006), pp. 163 64.

[35] Evan F. Kohlmann, *Al Qaida's Jihad in Europe: The Afghan Bosnian Network* (New York: Alfred A. Knopf, 2006), pp. 27 28.

comes despite successive generations of transnational insurgents attempting to legitimize their activities by directly comparing their actions to those taken by other foreign rebels in other wars.[36] The term "foreign fighter" is used here because it is widely employed in popular media reports, primarily concerning jihadis, and generates greater recognition of the concept it describes than do alternative jargon-laden terms (e.g. transnational insurgent).

A Lexis-Nexis database search for the origin of the term in media use yields not answers, but interesting patterns. The first description of a foreign insurgent appeared in a headline published on March 21, 1988 by *The Times* of London covering a story about a victory by Afghan mujahidin "aided by Saudi, Egyptian and Pakistani fighters" against pro-Soviet government forces: "Khost Outpost Falls to Mujahidin Led by Foreign Fighters." An article the following year in *The Independent* reported on South Africa's 32 Battalion, which had formed around the nucleus of Angolan FNLA rebels in exile.

Subsequent mentions of rebel "foreign fighters" through 1992 all appeared in British newspaper articles concerning "the growing number of foreign fighters" with Croatian separatist forces against the Yugoslav central government. A 1991 report noted the rise of "Black Legions" that included more than 100 Europeans of various nationalities. The British adventure-seekers and Iberian former newspaper correspondents were reported to earn fifty-nine pounds a month, as compared to the former French Foreign Legionaries "who received serious money to train Croat forces."[37]

Comparisons to a prior transnational insurgency emerged the following year. One report claimed that "the Yugoslavian civil war has more foreign fighters involved than any conflict since the Spanish Civil War. Unlike the International Brigade . . . the English fighting in Yugoslavia are not there to preserve liberty . . ." but were "mercenaries" escaping dead-end lives to earn "100 pounds per month and an inspiration."[38] Ted Skinner, a British volunteer, told a reporter before he was killed by Serb paramilitaries that the situation was analogous to German expansionism during the Spanish Civil War, arguing "If they get away with it in Bosnia, who's to say they won't in Kosovo?"[39]

In 1993, *The New York Times* quoted an Indian security official as estimating that "the total figure [of foreign fighters in Kashmir] is about 400," including 200 Afghans.[40] That same year, *The Toronto Star* covered the conflict

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[36] i.e. International MACHAL volunteers in 1948 Israel compared themselves to the International Brigades in the Spanish Civil War, whose members had compared themselves to the English and French who fought in the Greek and American wars of independence respectively. Contemporary jihadis refer openly to mujahdin in 1980s Afghanistan, etc.

[37] Marcus Tanner, "Foreigners Rally to Croatian Flag." *The Independent* Oct. 31, 1991.

[38] "Blood Brothers," *The Evening Standard*, May 21, 1992.

[39] Adam LeBor, "Network of Hatred Traps Mercenaries," *The Times*, Feb. 10, 1993.

[40] Sanjoy Hazarika, "Afghans Joining Rebels in Kashmir." *New York Times* Aug. 24, 1993.

in Bosnia, noting that "military units on all sides of the barricades have eagerly recruited foreign fighters."[41]

The concept had clearly come to represent the same type of actor regardless of particular conflict, location, or issue of contention, but there were only nine uses of the term in this context in media reports between 1988-1993. Although the appellation began to be employed by reporters covering Chechnya as well,[42] and received more mentions due to U.S. insistence that mujahidin leave Bosnia as part of the 1995 Dayton Peace Accords, the term appeared only thirty-nine more times in the global media between the beginning of 1994 and September 10, 2001.

The first post 9/11 mention appears in the Lexis-Nexis database on September 15, 2001, noting the dilemma faced by Taliban officials contemplating turning over Osama bin Laden to the United States in risking the wrath of "thousands of foreign fighters indispensable in their war against the Northern Alliance." By October 15, 2001 the term had appeared only five more times despite the preparations of the international community to confront al Qaeda forces in Afghanistan.

But by the end of the year, the term "foreign fighter" had appeared at least 313 times. What brought it into popular currency was the aftermath of the battle of Kunduz on November 27, 2001, in which, according to the Associated Press on November 27, 2001, "thousands of Afghan Taliban fighters who gave up were allowed safe passage out" while "under the terms of the Kunduz surrender, foreign fighters were to be imprisoned in the town's jail pending an investigation of their links with bin Laden." Therefore, while U.S. military operations had not created the identity and role of the foreign fighter, by publicly distinguishing transnational from local combatants they did reify the difference and create a context particular to current geopolitics. Following the end of hostilities at Kunduz, the term appeared 102 times in major world newspapers during 2002, all in references to foreign Muslim insurgents in locations from Kashmir to Georgia.

The invasion of Iraq was even more significant in entrenching this concept in the public consciousness than the routing of the Taliban and al Qaeda in Afghanistan. In the first two months of 2003, prior to the launch of the assault by Coalition forces on March 10, the term appeared seventeen times; by the end of the year it would have appeared another 660. It would appear more than one thousand times in each subsequent year. The explosion of coverage in major world newspapers both creates and reinforces awareness of the role of the foreign fighter as one to be assumed in any manner of insurgency, and the anecdotal evidence indicates that foreign fighters indeed regard themselves in a tradition of transnational insurgents.

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[41] Janusz Bugajski, "Yugoslav Wars a Godsend for Hired Guns," *Toronto Star*, April 10, 1993.
[42] Deutsche Presse Agentur, "Russian Forces Approach Grozny in Heavy Fighting," Dec., 20, 1994.

Why Are Most Contemporary Foreign Fighters Muslims?

Whether recruiters seek them on football fields or in chat rooms, the identity community used to motivate transnational insurgents in nearly all current cases is the Muslim ummah. Although some recent works have equated mujahidin with Spanish Civil War volunteers, these are single-sentence comparisons in the introductory sections of articles devoted to particular cases of jihadis.[43] The historical data presented in this project, however, indicates that the recruitment of foreign fighters – from locating potential recruits to framing the conflict – is essentially equivalent across cases, regardless of the issue of contention of the conflict. In modern history, transnational insurgencies stemmed from various ties of ethno-nationalism and ideology, but contemporary foreign fighters all share the same religious identity.

Nothing in the data suggests any intrinsic features of Islam or Muslim communities that should make this so. Rather, the cause appears to be partly the result of a period effect, the co-incidence of increasingly globalized communications and transportation technology with a particular identity community whose members have salient transnational identities. In the first half of the twentieth century, most foreign fighters were members of Communist groups. In the latter nineteenth century, the feared perpetrators of transnational violence were anarchists. In both instances, the militants and insurgents shared a key trait with mujahidin today: Transnational ideological affiliation was a highly salient identity because immigration and modernization had destroyed other communal ties and produced isolated, embattled individuals ripe for recruitment by movements that spoke to their particular fears.

Omar Nasiri, a former jihadi, describes his old colleagues as "Men who had no home. Men reviled in the West because they were not white and Christian, and reviled at home because they no longer dressed and spoke like Muslims."[44] Unprecedented waves of emigration by Muslims to the West deterritorialized the ummah, reinventing what it means to be Muslim and what constitute Muslim lands. Also, Wahhabism and other forms of strict Islam are now offered through the internet and a global network of madrassas, making national citizenship less consequential. These same institutions also challenge traditional cultural rituals as un-Islamic, leaving a transnational Islamic identity as the only alternative between the shunning, alien West and nearly equally closed former home societies. For this reason, much neo-fundamentalist violence, and an increasing number of foreign fighters, hail from Western countries rather than the Middle East. Neo-fundamentalism

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[43] Cerwin Moore and Paul Tumelty, "Foreign Fighters and the Case of Chechnya: A Critical Assessment," *Studies in Conflict and Terrorism*, 31.5 (2008), pp. 412 433; Mohammed Hafez, "*Jihad after Iraq: Lessons from the Arab Afghans. Studies in Conflict and Terrorism*," 32.2 (2009), pp. 73 94.

[44] Omar Nasiri, *Inside the Jihad* (New York: Basic Books, 2006), p. 2.

has flourished because it has already addressed (and rejected) westernization and provided a competing alternative – one that recruiters claim is threatened. Roy argues that once founding generations of Muslim immigrants are inevitably assimilated, transnational recruitment, funding, and website development will fade.[45]

Clifford Geertz described the ideologization of religion as a response to a *lack* of faith because traditional structures that provide meaning and value are collapsing.[46] It is notable that Islamist foreign fighters, beginning with Abdullah Azzam, do not return to their homelands to fight for Muslims there. They do not hope to re-shape their lost societies of origin, rather they go to the peripheries of the ummah, to devastated conflict zones or desolate failed states where cultural and governmental institutions are weak and they stand a greater chance of building a theologically correct society when they have defeated the oppressor. "Radical militant jihadists fight at the frontier to protect a center where they have no place. They fight not to protect a territory but to recreate a community . . . Contemporary mujahidin are pessimistic because they know that there is no longer a fortress to protect, that the enemy is in the fortress."[47]

Managing the Transnational Future

There is another reason why the vast majority of foreign fighters today are Islamists: As noted, after the conclusion of the first round of civil war in Afghanistan, mujahidin were refused entry or persecuted by home governments that feared that they would continue their jihadist activities rather than settle down to normal daily lives. In other cases, despite breaking national and international laws, foreign fighters were generally granted amnesty for their actions. The fact that the vast majority of foreign fighters in Texas, Spain, and Israel did not maintain careers in insurgency or terrorism is one indication that the policy of Muslim countries toward Arab Afghans in the 1990s was misguided. Another lesson from history is the case of nineteenth century anarchists who were also exiled and traveled between different underground groups, becoming "connectors" that passed along best practices to violent activists in other countries.[48]

Current approaches. As indicated by the debate over the closure of the detention facility at Guantanamo Bay, which housed a number of transnational insurgents that few states seemed willing to accept upon release, mitigating

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[45] Olivier Roy, *Globalized Islam: The Search for a New Ummah* (New York: Columbia University Press, 2004), pp. 2, 18, 120 25, 234, 324.

[46] I am following here Paul Overby, *Holy Blood: An Inside View of the Afghan War* (Westport, Conn.: Praeger Books, 1993), p. 190 in his summary of Geertz.

[47] Ibid., pp. 289, 305, 313.

[48] Ersel Aydinli, "Before Jihadists there were Anarchists: A Failed Case of Transnational Violence," *Studies in Conflict and Terrorism*, 31.10 (2008), p. 909.

levels of transnational violence is not a simple matter of amnesty. Even the jihadi rehabilitation programs attempted by Saudi Arabia, Yemen, and other states have yielded decidedly mixed results, both at home and abroad. For instance, three graduates of the Yemeni program were killed fighting in Somalia.[49]

The United States has attempted to limit foreign fighter entry to Iraq by controlling key crossing points. In some areas this has included using bulldozers to build berms of sand to serve as physical barriers. Another strategy is targeting the Syrian smugglers who bring transnational recruits across the border. Unlike the Comintern in Spain and Haganah in pre-Israel Palestine, al Qaeda in Iraq and other insurgent groups have left foreign volunteers to provide their own transportation and have outsourced the final stage to experienced border-runners. There is some evidence of distrust between the two parties to the transaction: al Qaeda has asked foreign recruits to rate the service provided by the smugglers and report how much money they ultimately charged.[50] While this weak supply chain does present obvious counterinsurgency (COIN) possibilities for co-opting paid smugglers, the United States' record in interdicting drugs and illegal immigrants entering its own borders, and preventing recruits from leaving for past foreign wars, does not bode well for a policing approach to Afghanistan, Somalia, and other conflicts where conditions will be even less manageable.

Other states have taken different approaches to limiting the supply of foreign fighters with varying degrees of success. Russia has targeted key Arab Chechens for assassination to disrupt leadership and recruitment networks, with some reported success.[51] Along with China and several Central Asian republics, Russia also formed the Shanghai Cooperation Organization in 2001, in part to coordinate efforts directed against transnational insurgency and terrorism.[52] The Netherlands has adopted a different tack, providing counseling and employment to dislocated Muslim immigrants so as to better integrate them into Dutch society and reduce the influence of militant groups that also offer social services.[53] The subsequent suicide bombing attack in Iraq by a Dutch-born woman who converted to Islam demonstrates that no approach will stop every determined insurgent.[54]

Policy recommendations: Lessons of history. In the case of foreign fighters, the genie is out of the bottle: They fill a recognized political role,

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[49] Gregory Johnsen and Christopher Boucek, "The Dilemma of the Yemeni Detainees at Guantanamo Bay." *CTC Sentinel*, 1.12 (Nov. 2008), pp. 1 4.

[50] Feller and Fishman, *Al Qaeda's Foreign Fighters*, pp. 25 27.

[51] Moore and Tumelty, "Foreign Fighters," p. 427.

[52] Ahmed Rashid, *Jihad: The Rise of Militant Islam in Central Asia* (New York: Penguin Books, 2002), p. 202.

[53] Ministerie van BZK, Dec. 2002, pp. 14 15. Available at: http://www.aivd.nl.

[54] Sebastian Rotella, "European Women Join Ranks of Jihadis." *Los Angeles Times* Jan. 10, 2006.

according to the data they are relatively successful, their effective practices serve as models and are self-consciously replicated, and their numbers are on the increase. State and international laws have not prevented them, and norms of national citizenship grow weaker as the number and proportion of insurgencies that go transnational rise. Given that both historic and contemporary foreign fighters have been responsible for greater levels of violence and prolonging conflicts – whether for good or bad causes – states that engage in COIN operations have understandable motives for preventing the transnationalization of civil conflicts.

In tackling the problem of foreign fighters, the first lesson from the historical record is that insurgencies use the same type of messaging for all types of foreign fighters, regardless of whether they share the same ethnicity or some other affiliation, and regardless of the war's issue of contention. The shared identity communities – whether religious, ideological, or nationalist – through which recruits identify with distant insurgents provide the social structures that enable dissemination of recruitment messages and permit the mobilization of foreign fighters. Most recruits are already highly active members of these institutions, but are marginalized within their broader polities. These shared transnational identities, and the duties that come with roles as members of the community, are therefore highly salient to the recruits, more so than ties of national citizenship.

This consistent pattern of foreign fighter recruitment messaging and mobilization across all types of cases carries useful implications for COIN planning. First, if insurgencies recruit foreign fighters by persuading them that they face a potentially existential threat as a member of a particular group, then threatening them still further with punitive measures or force is unlikely to deter them from mobilizing. On the contrary, doing so would support the frame of threat and might make high risk, high cost behavior seem even more necessary to forestall greater losses. Likewise, maintaining a high force profile in conflict zones as a deterrent against insurgents is also likely to provide fodder for recruitment propaganda. While there are valid strategic reasons for establishing forward military bases and force projection, and large numbers of personnel are necessary on the ground in successful COIN operations, efforts to use these practices to discourage foreign fighter interest in particular conflict zones is likely to fail.

A more effective approach would be to shift emphasis to preventing recruitment in the first place, and the historical data suggests two avenues for attempting to do so. The first possibility, and the second lesson of history for policymakers, concerns the enhancement of law enforcement efforts in disrupting the recruitment and mobilization process. Targeting particular identity groups for surveillance and infiltration invites charges of prejudice, whether they are Muslims today, or the Jewish Americans of the 1940s who were refused passports to limit the possibility that they would join the fight for Israel's independence.

Nonetheless, homeland security requirements and COIN efforts require identification of targets for intelligence-gathering. The data from the historical cases indicates relatively consistent demographic information that can be used to establish a profile of likely recruits that does not distinguish between the particulars of different identity groups and offers some anti-discrimination protection. Recruiters find foreign fighters among men who are in their early 20s and are first or second generation immigrants. Typically they come from lower socioeconomic status backgrounds, and available information suggests broken homes feature prominently, perhaps indicating why membership in community groups is so salient to them. Older recruits are targeted because of their prior military experience; younger recruits are enthusiastic members of the organizations that tie them to the distant insurgents and through which they are contacted by recruiters. Most recruits do not see themselves as mercenaries; they genuinely believe that they are fighting in a defensive rather than an elective war.

Recruiters strategically employ frames and emotive imagery designed to stimulate outrage and fear. They offer appeals to defend transnational communities because they believe that they can make obligations to these groups more salient to the recruits than their duties as citizens, which in most countries includes a proscription against foreign military service. Usually this is not a difficult pitch to make because recruiters have selected potential targets from groups looking for alternatives to civic participation.

Therefore, the third policy implication that can be drawn from historical cases is that the ultimate solution to foreign fighter recruitment is to diminish the salience of the transnational groups through which recruitment is conducted. Identities are built through the structures of social transactions, which provide roles in relation to other members of the group. Roles generate expected norms of behavior that influence decision-making, including duty to the group. More contact through these social channels strengthens particular identities and connections with other members. Foreign fighter recruits tend to be active in sub-cultures and are willing to fight for them because they identify more closely with other members abroad than they do with fellow citizens of the state in which they reside.

Preventing recruitment would therefore be a question of reducing the centrality of transnational groups as social structures in the lives of the recruits and replacing them with institutions of citizenship. Rather than attempting to suppress any group, a misguided approach that would also surely backfire and generate recognition of threat, the alternative is to build the appeal of national civil and military institutions so as to facilitate greater identification with the state and fellow citizens. While some view nationalism as a threatening phenomenon, it presents an alternative to transnationalism, and it is not necessary to fight fire with fire. The United States military is held up as a benign and effective social leveler, muting divisions in ethnicity and class among members of the armed forces even after their service has concluded. COIN planners should consider efforts to build effective government agencies

and professionalize the militaries in targeted states that produce significant numbers of foreign fighters. This form of soft power cooperation might even be viewed as attractive by some otherwise potential recruits.

The future of foreign fighters. This study has presented the potential for increased levels of international violence posed by the growing propensity for insurgencies to recruit transnationally. It has also demonstrated that foreign fighters are not a new phenomenon, and that most recruits are neither mercenaries nor fanatics bent on domination. Rather than for greed, most mobilize in response to perceived threat. Recruits may have their own motives of adventure, vindication of the group, or simply lack of better alternative opportunity, but recruiters across highly varied conflicts in time and space consistently use the same frame of defensive mobilization.

Globalization and the success of past foreign fighter-driven rebel groups are increasing the probability that insurgencies will transnationalize their violence in an effort to tip the balance of forces enough to win their civil conflicts. These efforts are desperation ploys that are attempted when the insurgencies are not strong enough to win on their own and are unable to obtain the assistance of a friendly foreign state. Foreign fighters in these instances are responsible for higher levels of violence because they believe that it is necessary to act more aggressively in a losing struggle for survival and because they do not have their own assets and families to protect as do local insurgents. Rather than confronting them in the field or attempting to disrupt their mobilization, establishing alternate identities for them as citizens would be the most efficient means for preventing their participation.

Increasing numbers of foreign fighters are a cause for concern, not alarm. Indeed, a number of transnational volunteers fought what would widely be considered "the good fight" against even greater evils and their members are acclaimed as heroes. In either case, transnational insurgencies have been with us for a long time, and appear likely to be factors in civil conflicts for the foreseeable future. When examined as a broad phenomenon, the consistent logic behind recruitment is apparent and suggests counter-strategies. It is to the benefit of the recruits, the states they fight, and the civilians caught in between, to understand why they really fight and to use this information to identify the routes to peace.

Sovereignty and the Foreign Fighter Problem

by Ian Bryan

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Abstract: Sovereignty is the bedrock of international law. If security requires that the United States transgress sovereign borders to attack foreign fighters and their support networks hiding in third countries, then the U.S. should adopt a strategy to amend international law accordingly. One should not be too quick, however, to disregard a robust notion of sovereignty, a concept that has helped avert conflict among the world's major powers. The United States needs a strategy for sovereignty's future that is based in the emerging security context and a prioritization of American interests. Instead, the United States and the rest of the world are meandering toward a less robust sovereignty with weaker and more ambiguous international law. The U.S. and its global interests would be better served by strong and clear international rules that increase predictability and that confer legitimacy to action against dangerous enemies.

Transgressing sovereignty in order to interdict foreign fighters and their support before they reach places like Iraq, Afghanistan, Pakistan, and Somalia can be operationally compelling but strategically costly. The United States derives great value from sovereignty as an idea and as a pillar of international law. But the United States chips away at sovereignty when it crosses borders to go after foreign fighters and other violent non-state actors. In fact, the United States undermines the power of law by failing to offer sustainable legal rationales or a vision for what sovereignty should mean in the future. Adapting sovereignty to deal with transnational problems like foreign fighters without thinking through the implications could actually make the world a more dangerous place while robbing the United States of a tool for mitigating danger. A broad appraisal of sovereignty's proper role in U.S. strategy should underlie its policy.

Foreign Fighters

Some of the most dangerous, fanatical fighters that U.S. troops and allies face in Iraq and Afghanistan come from other countries. These "foreign

fighters'' are mostly members of Al Qaeda and its jihadist allies. Foreign fighters are not agents of foreign governments, but they leave home typically to fight for a transnational cause or identity.[1] Those in Iraq, for example, come mostly from Saudi Arabia, Libya, Yemen, Algeria, Morocco, Tunisia, and Syria.[2] Foreign fighters today are also wreaking havoc in places such as Somalia and Pakistan. Elaborate support networks spread across several countries may recruit, train, equip, and smuggle fighters to their destinations. Sovereignty becomes a shield for foreign fighters where governments lack the will or capability to act effectively against these networks.

Transnational jihadism may be new but foreign fighters are not.[3] During the Cold War, they sometimes took sanctuary on one side of the Cold War divide and fought in a country on the other side. Islamist foreign fighters battling the Soviets in Afghanistan found a safe place to train, equip, and organize under the U.S. security umbrella in Pakistan. Crossing borders to go after foreign fighters and their supporters does not pose the same risks after the Cold War, and so the rise of jihadism coincides with new opportunities for dealing with the age-old foreign fighter problem.

Moreover, only the most important countervailing values can justify restraint in transgressing sovereignty to interdict foreign fighters and their support before they reach the battlefield. Other strategic and moral concerns belong in that calculation, but the assessment here focuses on the concept of sovereignty itself, at first blush a bland technicality in light of today's jihadist enemy, but in fact a crucial component of U.S. grand strategy.

Distinguishing foreign fighters from terrorists may be meaningless today since the foreign fighters of concern are al Qaeda and like-minded jihadists, but it is worth remembering that the categories are not identical. Most discussion about strategy focuses on identifying our enemies as terrorists rather than as foreign fighters. That is probably good, since the struggle today needs to focus on our enemies' terror tactics and the terror-based systems they wish to impose, not their movement across borders. "Foreign fighter" status derives from transnational identification and mobility, which influence our tactics and strategy, but are not why we fight them. We would in fact welcome a transnational movement to fight the jihadists, but we would not welcome one that sought to impose an equally dangerous order.

The systems that recruit, resource, and move foreign fighters to their destinations typically rely on key nodes and individuals, which tend to be

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[1] David Malet, "'The More Irregular the Service': Transnational Identity Communities and the Foreign Fighter," paper delivered at the 2007 Annual Meeting of the American Political Science Association, (http://www.allacademic.com//meta/p mla apa research citation/2/1/0/6/7/pages210675/p210675 1.php) p. 2.

[2] Joseph Felter and Brian Fishman, *Al Qa'ida's Foreign Fighters in Iraq: A First Look at the Sinjar Records*, (Combating Terrorism Center at West Point, 2008), p. 8.

[3] Malet, "The More Irregular the Service," p. 2.

concentrated in several cities.[4] Military and intelligence capabilities capitalizing on precision and information technology provide new options for attacking these networks.

Sovereignty

Originating with the Peace of Westphalia in 1648, the socially constructed idea of sovereignty is the foundation of the international system. Sovereignty refers to a state's preeminent authority within its borders, the state's right to bar outsiders, and to determine its own relations with the rest of the world. Of course, the idea has developed in many variations since 1648, with most of the world enjoying only limited sovereignty as part of a colonial empire until the twentieth century.

Like any idea, sovereignty remains powerful only so long as it commands respect. If not for the long-term implications of disregarding the sovereignty of states that wittingly or not harbor foreign fighters, interdicting such combatants would present merely an operational military problem rather than a strategic political one. In fact, the system of state sovereignty makes foreign fighters the exception rather than the rule.

The international and domestic legitimacy of U.S. foreign policy itself is at stake, as well as sovereignty's legal and normative power to confer legitimacy in the future. In an even larger sense, the stakes include the status of international law and norms as fonts of legitimacy. Considerations of legitimacy and sovereignty must also determine when and how to respect or transgress sovereignty. Indeed, these considerations are key in formulating grand strategy.

Legitimacy is Crucial

"Legitimacy" as used here refers to a wide acceptance of an authority and a general view that power is wielded justly. The classical realist E.H. Carr acknowledged in his 1939 book, *The Twenty Years' Crisis*, that "Just as within the state every government, though it needs power as a basis of its authority, also needs the moral basis of the consent of the governed, so an international order cannot be based on power alone, for the simple reason that mankind will in the long run always revolt against naked power. Any international order presupposes a substantial measure of general consent."[5]

Legitimacy is not the same as "soft power," which is the ability to steer events through powers of attraction as opposed to coercion or payment.

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[4] Felter and Fishman, "Foreign Fighters," pp. 10 11.

[5] Edward Hallett Carr, *The Twenty Years' Crisis, 1919 1939*, (New York: Perennial, 2001), pp. 235 36.

Legitimacy is, however, a key ingredient in some varieties of soft power.[6] Legitimacy can grease the way for hard power and mitigate its negative side effects. There is no clear division between these elements of power. They are simultaneously in play, exerting complementary or contradictory effect.

Legitimacy has magnified U.S. power and facilitated its dominance, giving the United States a stronger hand in structuring the international order and its key institutions. Of more immediate concern, legitimacy is at the heart of the struggle against radical jihadists. Legitimacy does not play that central role in every conflict or era. The legitimacy or international legality of Franklin Delano Roosevelt's aggressive aid to Britain before Pearl Harbor mattered little in achieving his strategic goals. Legitimacy became more important in the post-World War II anti-colonial and Cold War conflicts. Accordingly, a parade of corrupt and ineffective governments in Saigon undercut the U.S.' enormous military advantage in Vietnam. Legitimacy is even more crucial for today's struggle with terrorism since the war against radical jihadists is little more than a contest for the mantle of legitimate authority. Also at stake, more importantly, is a struggle for legitimate authority within Islam. We have again learned the limits of kinetic military power in this struggle, and it is widely acknowledged, and by no less than the Army and Marine Corps Counterinsurgency Field Manual that the military's prime job is to create enough security so that domestic institutions can take root and earn legitimacy.[7]

As in Iraq, U.S. strategy in Afghanistan is focused on legitimacy. The deterioration of security and the resurgence of the Taliban create a legitimacy-centered quandary: increase troops and risk delegitimizing U.S. efforts and allies by appearing more like an occupying force, or use fewer troops and accept greater risk of failing to provide enough security for Afghanistan to establish its own legitimate domestic institutions that are capable of sustaining a viable and responsible government.[8] The disappointing August 2009 Afghan election, marred by low turnout and credible allegations of fraud, was a serious setback to creating legitimacy.[9] Citizens of the U.S., like Afghans, will also be less willing to fight for what is perceived to be an illegitimate government in Kabul regardless of other interests at stake. Even in states where security is tight and effective, legitimacy deficits create weakness and openings for jihadists.

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[6] Joseph Nye, Jr., "Think Again: Soft Power," YaleGlobal Online, http://yaleglobal.yale.edu/content/think again soft power, 1 Mar 2006.

[7] *The US Army/Marine Corps Counterinsurgency Field Manual, US Army Field Manual No. 3 24, Marine Corps Warfighting Publication No. 3.33.5*, (Chicago: University of Chicago Press, 2007), p. 37.

[8] Peter Baker and Elisabeth Bumiller, "Obama Advisers are Split on Size of Afghan Force," *New York Times*, Sept. 4, 2009.

[9] "Afghanistan's National Election: The Vote Nobody Won," *The Economist*, Aug. 29, 2009, p. 12; and Dexter Filkins and Carlotta Gall, "Fake Poll Sites Favored Karzai Officials Assert," *New York Times*, Sept. 7, 2009.

After years of thinking about and fighting the sort of wars in which we are currently engaged, the U.S. military has come to recognize the importance of legitimacy; U.S. Joint Operations doctrine lists "legitimacy" as one of twelve key "principles of operations," and the word appears 131 times in the U.S. military's counterinsurgency field manual.[10] While illegitimate action may produce positive effects, on some level it also serves the enemy's purpose when the aim of war is to create legitimacy. Policy legitimacy bears on more immediate and tangible political and operational needs as well. Effective measures against foreign fighters, terrorists, and a host of emerging transnational problems require international cooperation. The Cairo cop and Berlin banker have information we need, and their governments can supply or withhold it. An otherwise friendly government finds it difficult to support U.S. policy if that policy is perceived as extra-legal or illegitimate.

Even if governments care only about maximizing power, the people being governed have broader interests. Normative, human sensibilities find political expression and create undeniable pressure on governments. Even the most locked-down societies, such as North Korea, constantly attempt to guard their legitimacy, fortified as it may be with terror. Perception matters, especially in a democratic age when popular opinion drives government policy. And even authoritarian states are losing their grip on information, making them increasingly sensitive to domestic judgments about international issues.

Law as a Path to Legitimacy

International law after World War II focused on averting interstate conflict. Although this goal undermines some deserving and even morally imperative ends, international law is nonetheless, and by design, the quintessential expression and arbiter of international legitimacy. *"Legitimus"* is, after all, Latin for "lawful."

Law and strategy were largely separate during the Cold War: strategy was at work overseas while the home front belonged to law. But needs have changed. Globalization, the increasing availability of destructive power, and the crucial role of legitimacy in the war against radical jihadists should be key factors in designing our strategy. Defense needs to be proactive overseas in order to win the kinetic fight against jihadists. But we also need to attend to the ideological war in order to cultivate allies and cooperation. At home, defense will become more intrusive but must not unnecessarily attack the liberties on which our domestic political rights and identity depend. And we must maintain

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[10] Lieutenant Colonel James W. Hammond, Canadian Forces, "Legitimacy and Military Operations," *Military Review* (July Aug., 2008), p. 62.

enough of a consensus at home to sustain this effort for a very long time. These threads can only be spun if strategy and law come much closer together.[11]

Sovereignty is the bedrock concept undergirding the international system, and its preservation is the starting point for much of international law. Disregarding sovereignty without a persuasive legal or normative argument exacts a heavy toll on legitimacy. The United States' interests may sometimes demand that international norms and laws bend or even break. But extra-legal action should be a rare exception, not because respect for sovereignty or any other tenet of the international system is a moral imperative, but because a foreign policy perceived as legitimate will, other things being equal, be more successful over the long run.

International law faces challenges from two directions. First, those who claim that intervention in today's environment is always forbidden render international law irrelevant and condemn it to disrespect. Disrespected law eventually dies. Major powers are demanding the ability to deal with terrorists and foreign fighters who hide behind sovereignty. Unyielding law ceases to move or represent legitimacy when it produces obvious and widespread danger and suffering.

Second, international law is simultaneously under threat from general neglect. Implausible legal rationales surrounded much of the war against jihadists after 9/11. John Bellinger, legal advisor to the Secretary of State, acknowledged that "one of the mistakes the United States made after 9/11 was not discussing with our allies the reasoning and legal basis behind the steps we took to combat al Qaeda"[12] There has been a renewed effort to shore up the war's legal pillar over the last few years, but the U.S. position has generally been that a self-defense claim is all law requires before transgressing sovereign borders to attack non-state actors. This interpretation renders law and its legitimating power weak. The hard question is how to balance the need for multilateral legitimate process with serious security imperatives.

While the United States still struggles to find its post-9/11 strategic footing, the norms and law that guide international expectation seem adrift. Confused standards and norms are not good for the world's sole superpower, for if any country has a general interest in transparency, predictability, and order, it is the United States. It is not only interested in being perceived as wielding power legitimately, but the United States also wishes to bolster a system in which legitimacy matters, thereby creating a context that historically plays to the nation's strengths. Indeed, a strategy that disregards sovereignty, and hence international law, without offering a plausible legal rationale or

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[11] See Philip Bobbitt, *Terror and Consent: The Wars for the Twenty First Century*, (New York: Anchor Books, 2008).

[12] John B. Bellinger, lecture, University of Oxford, Oxford England, Dec. 10, 2007. U.S. Department of State Online Archive, http://2001 2009.state.gov/s/l/2007/112723.htm.

alternative basis for order, undermines the very idea of standards and law. The U.S. continues to act as global hegemon because it is in its interests to do so. But that global agenda will cost more and yield less in a world with dulled legal sensibilities and institutions.

The United States has often championed and shaped international law. Yet since the 1980s, Americans have increasingly disapproved of international law as an unnecessary limitation on power.[13] That outlook culminated with the 2003 Iraq War when international law and legitimacy were marginalized. The pendulum may be swinging the other way, perhaps in response to how the Iraq War has played out and the obviously transnational nature of the most pressing security issues.

The argument that international law is a tool of the weak against the strong is misleading. Law is a product of political compromise, and a hyper-power like the U.S. has ample tools to ensure its interests are well represented. Of course that does not mean U.S. desires will always predominate, but they could not in a system that reflects the limits of U.S. power and that strives to build legitimacy. The U.S. derives great benefit from a system where power is to some degree codified into a legitimating device, and the history of international legal regimes illuminates how law serves the major powers.

Previous generations had been more comfortable with international law. Certainly the Founders saw it as crucial to the nation's success. More telling than the founders' letters and speeches is the Constitution's grant to Congress of the power to define and punish "offenses against the law of nations"[14] and the clause dictating that U.S. treaties "shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding."[15]

Historically, international legitimacy has weighed on the capacity of the United States to sustain foreign wars. Fighting the tide of international norms and law damaged domestic perceptions of policy legitimacy in Vietnam and again in Iraq. But international legitimacy boosted U.S. confidence and unity during Desert Storm and in Afghanistan. Would the country have been so united if Desert Storm and the war in Afghanistan lacked strong international legitimacy and the consequent allied help? Certainly support in Afghanistan was originally due to 9/11, but al Qaeda has largely scattered from there. Passion and interest will rally the United States, but a democratic society based on law, especially in the information age, can stray only so far from its own ideals without dividing the home front.

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[13] Louis Henkin, "Use of Force: Law and US Policy," in *Right v. Might: International Law and the Use of Force* (New York: Council on Foreign Relations, 1989), pp. 52 56.

[14] U.S. Constitution, Article 1, Section 8.

[15] U.S. Constitution, Article 6.

Moving Targets: Law and Legitimacy

Designing strategy entails predicting effects from alternate courses of action. Predictions about the strategic effect of transgressing sovereignty to attack foreign fighter networks or other non-state actors require understanding today's confused international law governing sovereignty and force.

International law is simply, and maddeningly, what the weight of international opinion says international law is. It is the conventional wisdom among states, or at least to the degree states are willing to act on or otherwise express that wisdom. It comes from treaties, with the UN Charter being most important regarding the use of force. It comes from custom, which forms a body of customary international law.[16] It is also gleaned from policy and rhetoric – official, judicial, and academic. The UN's International Court of Justice (ICJ) (not to be confused with the International Criminal Court) renders opinions that experts look to for guidance, but the court's mandate is only to decide the immediate controversies brought to it, denuding its decisions of formal precedential authority. The web of international law regarding the use of force is as messy and contentious as the legitimacy it is intended to confer. But that makes it no less important a venue and vocabulary for marshalling or losing legitimacy.

The UN Charter and the world wars from which it grew were watersheds for the international law of sovereignty. The twentieth century's two mass slaughters demonstrated to world leaders the need to delegitimize interstate violence, unless violence was to occur under the cooperative rather than competing auspices of the great powers.[17] The resulting UN Charter dominates international law concerning the use of force, and its text proclaims robust, nearly inviolable state sovereignty. The Charter also acknowledges its most powerful members in the Security Council, with that body's near monopoly on decisions about the use of force. But since the Charter's beginning, sovereignty's meaning has become more confused. Since the Cold War, sovereignty has been under pressure, seeming to yield ground to humanitarian intervention and then, especially after 9/11, bending to insecurity, including the desire to go after foreign fighters and their support networks.

Still, the UN Charter is the core of international law regarding force. The starting point is Article 2, Section 4, which directs members to refrain "from the threat or use of force against the territorial integrity or political independence of any state." Article 42 permits the Security Council to authorize military action to "maintain or restore international peace and security."

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[16] See Article 38.1 of the *Statute of the International Court of Justice*, http://www.icj cij.org/documents/index.php?p1=4&p2=2&p3=0#CHAPTER II.

[17] See the Preamble, *Charter of the United Nations*, 1945, (http://www.un.org/en/documents/charter/preamble.shtml).

A strict interpretation of the Charter holds that Article 42 is the lawful mechanism for dealing with humanitarian or security threats brewing inside sovereign borders. But all five permanent members of the Security Council have veto power, which has been employed with crippling effect.

That puts enormous weight on Article 51, the only self-defense exception to Article 2(4)'s prohibition against force. How this applies in reaching across borders to strike at foreign-fighter networks and others is controversial.[18] Article 51's relevant language is: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security."

Debate over the scope of Article 51 begins with the meaning of "the inherent right of . . . self defense." It is universally accepted that a state may defend against an ongoing attack, but offense and defense are not easily separated in practice. Non-state actors add another dimension of complexity because the fight will involve a third party – the government of the country where the non-state actor hides.

The Charter's purposes, as explained in its preamble, support limits on sovereignty and justify intervention in what was once considered a state's internal affairs. That is, "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small. . . ." Individual rights relative to the state have expanded, and many scholars and governments now interpret international law to permit violating the sovereignty of a state when it broaches or fails to provide basic protections.[19] In fact, just as sovereign territorial integrity was being codified at the 1945 United Nations conference in San Francisco, Nazis were being held to account for "crimes against humanity" at Nuremberg. The end of the Cold War has made it less risky to poke inside other states and so humanitarian operations are more viable, tempting states to push beyond the Charter more often.

Kosovo, where NATO undertook a controversial humanitarian intervention without Security Council approval, is the most prominent example. Even though most scholars agree that the operation violated the Charter and international law, UN Secretary General Kofi Annan, speaking before the General Assembly in 1999, described a new "era when strictly traditional notions of sovereignty can no longer do justice to the aspirations of peoples everywhere to attain their fundamental freedoms."[20]

[18] Sean D. Murphy, "Protean Jus Ad Bellum," *Berkeley Journal of International Law* 27 (2009), p. 23.

[19] Franck, "Centennial Essay," pp. 99 100.

[20] Kofi A. Annan, "Secretary General Presents His Annual Report to the General Assembly," United Nations, September 20, 1999. (http://www.un.org/News/ossg/sg/stories/statments search full.asp?statID=28).

A strict Charter interpretation forbidding intervention to deal with foreign fighters or other security threats percolating inside another country's borders becomes less tenable and arguably inconsistent with a view that tolerates humanitarian intervention. Legal inconsistencies tend to dampen over time. Evidence of government culpability can be a key practical difference though.

Genocide and grossly negligent attention to humanitarian needs generate compelling video, spawning an international constituency for action. Foreign fighter networks by contrast operate clandestinely. The intelligence may be solid, but sources and methods must remain secret or be risked, and government-controlled intelligence assets would not convince skeptics anyway. Governments harboring foreign fighters may even want their rivals to know that not only are they sheltering foreign fighters, but also that they can crush them for the right price. Those same governments will hide their involvement from public view to preserve their legitimacy while denying legitimacy to counter-measures their victims might employ.

Syria, for example, despite its pervasive domestic security apparatus, has been a conduit for large numbers of foreign fighters traveling to Iraq. President Assad would like many things from the U.S., and he believes that the ability to modulate violence in Iraq gives him leverage.[21] But how does one publically prove that Syria allows foreign fighters to do their work there?

The culpability of the host state is a key issue in legal debates surrounding intervention. Perhaps the most cited court opinion regarding military intervention came from the International Court of Justice in *Nicaragua v. United States* from 1986. The court held that the U.S. violated international law in supporting Nicaraguan rebels and in mining Nicaraguan harbors. The U.S. claimed that its action was legal under Article 51 in defense of its ally El Salvador, which was fighting a Nicaraguan-supported insurgency. The oft cited legal outcome was the court's rejection that Nicaraguan support for the El Salvadoran rebels constituted an "armed attack," the triggering event for Article 51 self defense action, because Nicaragua did not exercise "effective control" over the El Salvadoran rebels. Material support was not enough to justify transgressing Nicaraguan sovereignty. Likewise, while the court held the U.S. responsible for directing some acts of the Contras in Nicaragua, it did not hold the U.S. responsible generally for Contra activity.[22] The influential UN

[21] David Lesch, paper delivered at the "*Foreign Policy Research Institute Program on National Security Conference: The Foreign Fighter Problem,*" Washington, D.C., July 14, 2009; http://www.fpri.org/multimedia/20090715.syriaforeignfighters.html.

[22] International Court of Justice, *Military and Paramilitary Activities in and Against Nicaragua* (Nicaragua v. United States of America) (Merits), June 27, 1986; http://www.icj cij.org/docket/index.php?p1=3&p2=3&k=66&case=70&code=nus&p3=4&PHPSESSID=ebc149857128451bb18046edd0f905af. See para. 115 for discussion of the effective control test.

International Law Commission in its August 2001 report endorsed this narrow view of state responsibility.[23]

The U.S. position has usually been that attacks against terrorists and their state sponsors, such as the 1986 strike against Libya, are legally justified under the inherent right of self-defense. That view failed to inspire international consensus or at least the consensus hoped for, and the Libya attack provoked a UN General Assembly resolution describing it as illegal. The same logic would seem to apply to strikes against today's foreign fighter networks, but views are changing.

The international law against intervening in other countries to attack non-state actors enjoying sanctuary took a beating during the 1990s and especially after 9/11. Cross-border operations aimed at terrorists and foreign fighters are on the rise, sparking a merely tepid international reaction. The reactions are just as important in the evolution of international law as the attacks themselves. Customary international law arises from both state practice and *opinio juris*, which is the assertion or acceptance of a practice as lawful. In other words, there is theoretically little effect on international law if a state does not claim to be acting lawfully or if the action is widely condemned as unlawful. U.S. attacks against suspected terrorists in Sudan and Afghanistan in 1998 drew little legal heat. Since 9/11, only minimal international condemnation has followed Turkish attacks inside Iraq, Israeli attacks in Lebanon and the Gaza Strip, Ethiopia in Somalia, and U.S. attacks in Pakistan. Even the purported 2008 raid inside Syria by U.S. Special Forces troops against foreign fighter facilitator Abu Ghadiyah elicited weak, almost pro-forma international protest.[24]

The emerging customary international law and interpretation of the UN Charter is that foreign fighters and not their pursuers have brought the fight to other states. The right to self-defense is not limited to each engagement in war, but to the conflict as a whole. The conflict with al Qaeda and its allies, the bulk of foreign fighters today, began at their instigation long ago. They may therefore be pursued wherever they hide.[25] The inherent right to self-defense is not eclipsed by states that either cannot or will not prevent their territory from being used as a base of operations for non-state groups. As discussed earlier, international law relies on agreements and custom, and even though international judicial institutions and many academics seem to be lagging the trend, states seem increasingly comfortable with a permeable sovereignty. If the trend continues, international courts and scholars will have to follow.[26]

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[23] International Law Commission of the United Nations, *Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries*, 2001, Article 8, p. 47.

[24] Murphy, "Protean," pp. 38 41.

[25] For the argument that the UN Charter is evolving to meet modern threats see Tarciscio Gazzini, "The Rules on the Use of Force at the Beginning of the XXI Century," *Journal of Conflict and Security Law* 11.3 (Winter, 2006).

[26] Murphy, "Protean," pp. 34 35.

Shaping Law

The world's sole superpower has a lot to say about the shape of international law and norms, and the U.S. seems to be pushing for a definition of sovereignty that precludes sanctuary for violent non-state actors. That idea would face little opposition but for the more difficult question of who decides. Who decides when sovereignty has been forfeited and transgression is legitimate? The Security Council system was designed to address this through a process that gave major powers a veto to avoid serious conflict. U.S. conventional wisdom is that the Security Council has become dysfunctional, with vetoes preventing action against foreign fighters, terrorism, WMD, humanitarian disaster, and other serious problems.

What might replace a Security Council system that is, at least in the U.S. and much of the West, increasingly discredited? There is little value in a standard that merely requires a state to declare that its actions are in response to foreign fighters or terrorists, especially when governments cannot agree on a definition of "terrorist." Such a standard for the use of force might do more harm than good by providing a legitimate peg on which to hang otherwise abhorrent behavior.

UN procedures could be amended to subvert the veto power and unlock that body as a legitimating device, but the permanent members are unlikely to accept that solution. Some suggest that like-minded democracies should form their own multilateral body, giving up on formulating and enforcing behavioral norms with states that do not share their values.[27] This is what happened in a humanitarian context when NATO went to war over Kosovo; NATO sidestepped the UN Security Council and Russia's veto. The operation violated the Charter and probably international law. It nevertheless enjoyed considerable legitimacy as a multilateral trans-Atlantic effort, approved and executed through NATO's bureaucratic and relatively transparent structure. Despite important dissenters, the Kosovo mission was also widely perceived as a just cause. But does this create legitimate space for adventurism by other, disagreeable coalitions, and is that a fair price to pay? Legitimacy and law dictate that similar standards apply to similarly situated groups. That is why policymakers should think hard before bending norms, law, and legitimacy in any direction.

Before the Security Council loses all its moral authority, it is worth considering whether the Council has not been faithfully serving its vital purpose of keeping the major powers off of each other's toes. Rising living standards around the world have created growing appetites for natural resources and trade. China, for example, has newfound interests across Africa and the Middle East, and it is a fair guess that China's rapid military growth has

[27] Robert Kagan, *The Return of History and the End of Dreams*, (New York: Alfred A. Knopf, 2008), p. 97.

been influenced, if not driven by, China's need to secure access to increasingly vital foreign resources. Domestic legitimacy often depends on the ability to deliver prosperity to emerging middle classes, and that makes foreign policy more assertive. As Robert Kagan argues in *The Return of History and the End of Dreams*, globalization and re-emergent nationalism are among the forces "producing geopolitical fault lines where the ambitions of great powers overlap and conflict and where the seismic events of the future are most likely to erupt."[28] Jakub Grygiel warns that failed states are a "potential source of great power competition that in the past has often led to confrontation, crisis and war."[29]

Neither sovereignty nor international law has a pre-ordained role in international affairs. Prosperity and security are going to demand intellectual and political capital to chart and pursue a course for sovereignty that serves the larger goals of U.S. strategy. If crossing borders to go after foreign fighters will be a rare event, then strained or even bad legal rationales or silence might not undermine the principle of legitimacy. But the international system is changing, and the U.S. and other countries are concluding that non-state threats will demand more frequent cross-border operations. The United States needs suitable legal doctrines.[30] Beyond merely stating its interests — the United States needs to clarify why crossing sovereign borders is a legitimate exercise of power.

Sovereignty and Methods

All means of transgressing sovereignty are not created equal. Methods vary in their impact on sovereignty and hence their legitimacy and strategic side effects. The outcry over violations of sovereignty by unmanned U.S. drone strikes in Pakistan was far milder than the reaction to a U.S. ground assault against Taliban and al Qaeda forces in the same region.[31] There may be no legal distinction between land and air incursions, but perhaps there should be. Air power may degrade or punish an enemy, but it does not have to control the ground over which it operates. NATO's 1999 air campaign, for example, violated Serbian airspace but did not supplant Serbian government authority the way ground forces would have. Air power can target a government's instruments of control and sovereignty, but not necessarily. This is not to say that the advantages of ground power are never worth the extra toll taken on sovereignty.

[28] Kagan, *Return of History*, p. 12.
[29] Jakub Grygiel, "Vacuum Wars: The Coming Competition Over Failed States," *American Interest* (July Aug. 2006), pp. 40 45.
[30] See Franck, "Centennial Essay."
[31] Peter Bergen and Katherine Tiedemann, "The Drone War: Are Predators Our Best Weapon or Worst Enemy?" *New Republic* June 3, 2009, p. 23.

Much of the criticism over drone strikes in Pakistan has merged the issues of civilian deaths and sovereignty. Since the present and past administrations have decided that the United States is unwilling to hand Afghanistan back to the Taliban and Al Qaeda, then the question is how, and not whether, to deny foreign fighters and other enemies sanctuary across the Pakistani border.[32] Land forces offend Pakistan's sovereignty more and excite vastly stronger anger than air power. It is also unclear whether air power is more harmful to civilians than land power, especially since air-power generated civilian casualties in Iraq and Afghanistan have occurred mostly while supporting ground forces.

Other means of disrupting foreign fighters, like financial measures, have garnered less attention for their challenge to sovereignty. These effects seem to parallel the state's eroding control over international finance generally.

Cyberspace operations against foreign fighter networks are rarely discussed and little known. From a sovereignty standpoint, perhaps few people care. Legitimacy of cyber action does not seem to raise great concern, except in places like Estonia that have come under heavy cyber attack. Anonymity and deniability may insulate cyber operations from debates about sovereignty.

Conclusion

Pakistan brings to light many of the dilemmas surrounding foreign fighters and sovereignty. Many commentators argue that U.S. attacks against foreign fighters in Pakistan have undermined the Pakistani government and made it more difficult politically for Pakistan to cooperate with the U.S. and weakened Pakistan's ability to battle foreign fighters and terrorists there. In light of recent increased Pakistani cooperation, however, a counter argument is that the strikes pressured Pakistan's government to do something about Taliban and al Qaeda sanctuaries. Meanwhile, U.S. drone strikes have been militarily productive, reducing safe haven in the tribal areas and killing important Taliban and al Qaeda leaders.[33]

Most governments take action against foreign fighter networks hiding or receiving support from within their borders, but they could do more with the right motivation or capability. Direct U.S. action against foreign fighters bears strategic costs that are not always apparent in the immediate analysis. Yet, taking full account of these costs may raise the relative benefit of doing what it takes to gain more effective cooperation from those governments.

[32] For an argument that strikes are counterproductive see, David Kilcullen and Andrew McDonald Exum, "Death From Above, Outrage Down Below," *New York Times* May 17, 2009.
[33] Mark Mazzetti and Helene Cooper, "Panetta Indicates Strikes Will Continue in Pakistan," *New York Times* Feb. 26, 2009.

Treating sovereignty as absolute and unchangeable corrodes the international system just as surely as does tossing away international law for fleeting expediency. Without an overarching strategy to shape the concept of sovereignty for the twenty first century and without attention to legal rationales, today's challenges will lead to an even more dangerous and unsettled world. The United States will need all the legitimacy it can muster to shape and maintain this system in a way that serves its long-term interests.

Foreign Fighters and Their Economic Impact:
A Case Study of Syria and al Qaeda in Iraq (AQI)

Dr. Matthew Levitt[1]

The Foreign Fighter Problem
Conference of the Foreign Policy Research Institute
The National Press Club
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"The purpose of the U.S. military team going to Damascus is to urge Syria to do more to prevent foreign fighters from coming here."

~ Iraqi Foreign Minister Hoshyar Zebari, June 17, 2009[2]

I. Introduction

Running an insurgency is an expensive endeavor. Financing and resourcing insurgent activities, from procuring weapons and executing attacks to buying the support of local populations and bribing corrupt officials, requires extensive fundraising and facilitation networks that often involve group members, criminal syndicates, corrupt officials, and independent operators such as local smugglers. Along these lines, a report of the Financial Action Task Force (FATF), an international body focused on anti-money laundering and combating terror finance, found that while financing any singular attack may be relatively inexpensive compared to the damage incurred, "maintaining a terrorist network, or a specific cell, to provide for recruitment, planning, and procurement between attacks represents a significant drain on resources. A significant infrastructure is required to sustain international terrorist networks and promote their goals over time." Creating and maintaining such support and facilitation networks, FATF concluded, requires significant funds.[3]

FATF's findings are certainly the case in Syria, where terrorist and insurgent groups have established sophisticated networks to facilitate the movement of foreign fighters from around the world into Iraq. These networks are especially important since foreign fighters facilitated through Syria have

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[2] Patrick Cockburn, "US Troops Ask Syria To Thwart Al-Qa'ida Offensive," *The Independent* (UK), June 17, 2009.

[3] "Terrorism Financing," Financial Action Task Force, February 28, 2008, available online at http://www.fatf-gafi.org/dataoecd/28/43/40285899.pdf

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been responsible for the most spectacular attacks on Iraqis and coalition forces. Given the priority that Iraq and Syria both play in the Obama administration's efforts to stabilize the Middle East, as well as the wealth of information now available on Syrian-based foreign fighter facilitation networks, this paper focuses its attention on the case study of Syria, foreign fighters in the Iraqi insurgency, and their economic impact.

Foreign fighters' use of third party countries for training, fundraising, and transit is not merely an operational phenomenon, but an economic one as well. There are both direct and indirect economic consequences – both positive and negative – that result from the existence and operation of foreign fighter networks in Syria, for example. These consequences impact Syria and the Syrian government, various elements of the Syrian populace, from the political, social, and religious elites to the locals living in towns along the Syrian-Iraqi border, Iraq as the foreign fighter destination, and other countries in the region as well. Developing realistic strategies to contend with foreign fighter networks operating in third party countries is contingent upon first developing a holistic comprehension of the phenomenon, including an understanding of the economic impact

II. AQI Network in Syria: Facilitating Foreign Fighters and Operations

Al Qaeda in Iraq (AQI) has long benefited from a network of associates in Syria, used to facilitate travel to Iraq. In a 2003 Italian investigation of foreign fighter recruiters operating out of Italy, the Italian prosecutors noted that "Syria has functioned as a hub for an al Qaida network."[4] Transcripts of operatives' conversations "paint a detailed picture of overseers in Syria coordinating the movement of recruits and money" between cells in Europe and Ansar al-Islam training camps in northern Iraq.[5] The cell's leaders in Syria facilitated the recruits' travel and provided their funding, while the European members gave false travel documents to recruits and fugitives and monitored their travel. Some of the recruits traveling to the Ansar camps stayed at the Ragdan Hotel in Aleppo for some time and later stopped in Damascus. Indeed, the Italian investigation revealed that Zarqawi's operatives in Europe acted on the instructions of his lieutenants in and around Damascus and Aleppo, including Muhammad Majid (also known as Mullah Fuad and described as the "gatekeeper in Syria for volunteers intent on reaching Iraq"), and two men referred to as "Abdullah," and "Abderrazak." For example, in one conversation, an operative assured a comrade that sending money via Fuad was safe, saying, "I have sent so many transfers to Mullah Fuad and they always got there, no problem."[6] In another conversation, a senior operative assured his subordinate about funding, stating, "Don't ever worry about money, because Saudi Arabia's money is your money."[7]

AQI has also long received significant financial and operational assistance from its support network in Syria. In 2005, the U.S. Treasury Department designated Sulayman Khalid Darwish, who was operating out of Syria, a Specially Designated Global Terrorist (SDGT), for fundraising and recruiting for Zarqawi's network and al Qaeda. Described as a member of the Zarqawi organization's Advisory (Shura) Council and "one of the most prominent members of the Zarqawi Network in Syria," Darwish prepared forged documents, recruited and dispatched terrorists, and raised funds for the Zarqawi network.[8]

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[4] Sebastian Rotella, "A Road to Ansar Began in Italy: Wiretaps are Said to Show how al Qaeda Sought to Create in Northern Iraq a Substitute for Training Camps in Afghanistan," *The Los Angeles Times*, April 28, 2003.
[5] Ibid.
[6] Sebastian Rotella, "Probe Links Syria, Terror Network: Italian Investigation Finds the Country Was A Hub for Shuttling Money and Recruits to Iraq," *The Los Angeles Times*, April 16, 2003.
[7] Sebastian Rotella, "A Road to Ansar Began in Italy: Wiretaps are Said to Show how al Qaeda Sought to Create in Northern Iraq a Substitute for Training Camps in Afghanistan," *The Los Angeles Times*, April 28, 2003.
[8] Treasury Press Release, "Treasury Designates Individual Financially Fueling Iraqi Insurgency, al Qaeda," January 25, 2005, available online at http://www.treas.gov/press/releases/js2206.htm

Evidence of this network's continued presence in Syria followed in December 2007. On December 6, 2007, the U.S. Treasury Department designated seven individuals, based out of Syria, for providing financial and operational support to the Iraqi insurgency. One individual was a member of AQI and the remaining six were former regime officials representing the Iraqi wing of the Syrian Ba'ath Party. In a press release, Undersecretary of the Treasury Stuart Levey insisted, "Syria must take action to deny safe haven to those supporting violence from within its borders."[9]

In addition to targeting Coalition forces in Iraq, Syrian networks also targeted entities worldwide. When authorities linked the al-Tawhid terrorist cell, apprehended in Germany in April 2002, with Abu Qatada in Britain, Zarqawi reportedly controlled its activities. Eight men from the cell were arrested, and raids yielded hundreds of forged passports from Iran, Iraq, Jordan, and Denmark among other countries. According to German prosecutors, the group facilitated the escape of terrorist fugitives from Afghanistan to Europe and planned to attack U.S. and Israeli interests in Germany.[10] According to the 2002 annual report of the Office for the Protection of the Constitution (OPC), Germany's domestic intelligence service, Zarqawi also "commanded a *mujahidin* network in the Federal Republic of Germany, among other countries."[11] Members of Zarqawi's German cell included Mohamed Abu Dhess, Shadi Abadallah, Aschraf Al-Dagma, Djamel Moustafa and Ismail Shalabi.[12]

While in Syria, Zarqawi reportedly planned and facilitated the October 2002 assassination of Lawrence Foley, a U.S. Agency for International Development official in Amman.[13] Jordanian prime minister Abu Ragheb Ali announced that the Libyan and Jordanian suspects, arrested in December in connection with the attack, received funding and instructions from Zarqawi and had intended to conduct further attacks against "foreign embassies, Jordanian officials, and some diplomatic personnel, especially Americans and Israelis. According to the Jordanian indictment, Zarqawi's group had been planning to target "American and Jewish interests as well as Jordanian security forces since 1997."[14] The captured assassin, Salem Said Bin Sewid, confessed that Zarqawi provided funding and weapons for the assassination.[15] The indictment also noted that Zarqawi not only infiltrated into Jordanian territory before the attack—presumably from Syria—to select eleven recruits for the attack, but he also provided "$60,000, as well as machine guns, silences, tear gas, gloves and a vehicle to use for terrorist operations."[16] After the attack, "an associate of the assassin left Jordan to go to Iraq to obtain weapons and explosives for further operations"at a time when a Zarqawi-run network

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[9] U.S. Treasury Press Release, "Treasury Designates Individuals with Ties to Al Qaida, Former Regime," December 6, 2007, available online at http://www.ustreas.gov/press/releases/hp721.htm

[10] Philipp Jaklin and Hugh Williamson, "Terror Suspects Detained in Germany," *Financial Times,* April 24, 2002; Edmund L. Andrews, "German Officials Find More Terrorist Groups, and Some Disturbing Parallels," *The New York Times,* April 26, 2002.

[11] "Annual Report of the Office for the Protection of the Constitution, 2002," available online at http://www.verfassungsschutz.de/news/vsb2002_engl.pdf

[12] "Treasury Designates Six Al-Qaeda Terrorists," US Department of the Treasury press release (JS-757), September 24, 2003. Available online: http://www.treasury.gov/press/releases/js757.htm

[13] Secretary of State Colin Powell, Remarks to the United Nations Security Council, February 5, 2003, available online at www.state.gov/secretary/rm/2003/17300.htm, and "Treasury Designates Six Al-Qaeda Terrorists," US Department of the Treasury press release (JS-757), September 24, 2003,, available online at http://www.treasury.gov/press/releases/js757.htm

[14] Rana Husayni, "Foley Terror Trial Postponed for Appointment of New Council," *The Jordan Times*, July 1, 2003.

[15] Secretary of State Colin Powell, Remarks to the United Nations Security Council, February 5, 2003, available online at www.state.gov/secretary/rm/2003/17300.htm

[16] Rana Husayni, "Foley Terror Trial Postponed for Appointment of New Council," *The Jordan Times*, July 1, 2003.

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was operating in Baghdad.[17]   The operatives were trained in Syria, supplied with weapons, and instructed to return to Jordan and identify a target for the attack.[18]

In addition to Zarqawi's targeting of foreign diplomats, he planned to execute, what would have been considered a terror attack of immense magnitude had it not been foiled, against Jordanians.. In April 2004, Jordanian officials announced that they had thwarted a major plot organized by Zarqawi to attack various locations in Amman, targeting Jordanians and Americans. The fact that this plot targeted Jordanians was especially shocking. While previous plots had targeted faceless foreigners, this particular plot involved a Jordanian national targeting his own people. According to the confession of Azmi Al Jayousi, a Jordanian of Palestinian origin who was the cell's leader, he and several other Jordanians and Syrians were personally recruited by Zarqawi. The cell's targets included the Jordanian General Intelligence Department (GID) Headquarters, the Prime Ministry, and the U.S. Embassy in Amman.[19]   Jordanian authorities maintain that the twenty tons of explosives intended for the multiple coordinated attacks contained more than ninety-two chemicals, and would have resulted not only in a large explosion, but also a chemical cloud.[20] Based on an analysis of the explosives that were confiscated, Jordanian experts maintain that the bomb had the potential to injure 160,000 people.[21]

Whether this was a potential chemical attack or an extremely potent conventional explosive is secondary to the fact that the Jordanian nationals were supported by facilitators and planners in Syria and produced a powerful explosive device that they intended to deploy against fellow Jordanians. For example, Haithem Omar Ibrahim, was a Syrian member of the Jordanian Zarqawi network who entered Jordan via Iraq and arranged safe houses for the plotters, where they lived for several months while preparing the planned mega attack.[22] During this time, the cell manufactured twenty tons of explosives and organized the logistics of the attacks. Throughout this period, Jayousi remained in contact with Zarqawi through messengers, most of whom traveled between Jordan and Iraq through Syria. One of Zarqawi's most prominent Syrian aides, Suleiman Khaled Darwish, supervised this communications channel, arranging for couriers to deliver messages, forged passports, and identity cards.[23] Jordanian intelligence further discovered that Zarqawi's network would often send couriers with messages written in invisible ink on paper currency carried in their wallets.[24] Passing messages on bills of small denominations raised no alarms since anyone passing through the border would be expected to have a small amount of cash on their person. Zarqawi also used these couriers to send large amounts of money – presumed to have been raised in Europe and the Gulf –to fund the operation. According to Jayousi, Zarqawi "started sending me money through messengers, payments of ten and fifteen thousand, until I had a total of about $170 thousand, I bought a large quantity of the material with that money."[25]

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[17] Secretary of State Colin Powell, Remarks to the United Nations Security Council, February 5, 2003, available online at www.state.gov/secretary/rm/2003/17300.htm

[18] Alon Ben-David, "Jordanian indictment reveals operations of Jund al-Shams terror network," *Jane's*, June 16, 2003, available online at
http://www.janes.com/security/international_security/news/jtic/jtic030616_1_n.shtml

[19] Full text of confession – Al Qaeda plans terrorist attack in Chemical Weapons Against Jordan. April 27, 2004, available online at http://www.imra.org.il/story.php3?id=20579

[20] Author interview with Jordanian official, November 11, 2004.

[21] Author interview with Jordanian official, November 11, 2004.

[22] Full text of confession – Al Qaeda plans terrorist attack in Chemical Weapons Against Jordan. April 27, 2004, available online at, http://www.imra.org.il/story.php3?id=20579

[23] Full text of confession – Al Qaeda plans terrorist attack in Chemical Weapons Against Jordan. April 27, 2004, available online at, http://www.imra.org.il/story.php3?id=20579

[24] Author interview with Jordanian official, July 7, 2004.

[25] Full text of confession – Al Qaeda plans terrorist attack in Chemical Weapons Against Jordan. April 27, 2004, available online at, http://www.imra.org.il/story.php3?id=20579

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III. Benefits of Foreign Fighter Networks

Benefits to the Insurgent Group (AQI)

The benefits of facilitation networks for terrorist and insurgent groups are clear: without such support networks the particular groups cannot function. They are essential elements of groups' efforts to finance and resource their expensive activities. As Major General Raymond T. Odierno, the commander of the Army's 4th Infantry Division noted in late 2004, "When we first got here, we believed it was about $100 to conduct an attack against coalition forces, and $500 if you're successful. We now believe it's somewhere between $1,000 and $2,000 if you conduct an attack, and $3,000 to $5,000 if you're successful."[26] Still, it is not the cost of any individual attack, but rather the larger infrastructure costs that drive insurgent expenses. A Senior Intelligence Officer from the Defense Intelligence Agency explained in 2005,

> We believe terrorist and insurgent expenses are moderate and pose little significant restraints to armed groups in Iraq. In particular, arms and munitions costs are minimal—leaving us to judge that the bulk of the money likely goes toward international and local travel, food and lodging of fighters and families of dead fighters bribery and pay-offs of governmental officials, families and clans; and possibly into the personal coffers of critical middle-men and prominent terrorist or insurgent leaders.[27]

Insurgents in Iraq primarily raise funds through major donors, criminal activities, former regime elements (FRE), and facilitation networks. For the purposes of this paper, we will focus on the latter two, which are interrelated. Documents seized in a September 2007 raid on a suspected AQI safe house in Sinjar, in Western Iraq, revealed that in the 2006-2007 timeframe, the group was heavily dependent on donations, much of which came from AQI leaders, foreign fighters, as well as local Iraqis. [28] Among the foreign fighters who contributed to AQI, Saudi fighters were the most prolific, contributing significantly larger amounts than the other foreign fighters, with an average contribution of $1088. Additionally, of the twenty-three fighters who contributed more than $1000, twenty-two were Saudi.[29]

FREs, who escaped Iraq for Syria, relied on smuggling networks, established during the Hussein regime, in their funding of the Iraqi insurgency. These smuggling networks had served as tools used by the Iraqi regime to evade U.N. sanctions and U.N Oil for Food trade limitations. According to a 2003 United Nations Office on Drugs and Crime (UNDOC) report, "Theft of oil and copper and trafficking in these products is currently a major problem. The evolving nature of organized crime in

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[26] Bonner and Brinkley, "Latest Attacks Underscore Differing Intelligence Estimates of Strength of Foreign Guerrillas." *New York Times.* October 28, 2003.

[27] Caleb Temple, Testimony before the House Armed Services Subcommittee on Terrorism, Unconventional Threats, and Capabilities, July 28, 2005.

[28] Bombers, Bank Accounts, and Bleedout: Al-Qai'da's Road in and Out of Iraq. Harmony Project, Combating Terrorism Center West Point. Pp. 68. Available online at, http://ctc.usma.edu/harmony/pdf/Sinjar_2_July_23.pdf.

[29] Bombers, Bank Accounts, and Bleedout: Al-Qai'da's Road in and Out of Iraq. Harmony Project, Combating Terrorism Center West Point. Pp. 70. Available online at, http://ctc.usma.edu/harmony/pdf/Sinjar_2_July_23.pdf.

Iraq is based on sophisticated smuggling networks, many established under the previous regime to circumvent U.N. sanctions."[30]

While some facilitators are ideologically driven members of the group or like-minded followers, others are traditional criminal smugglers who do not differentiate between the smuggling of foodstuffs or the smuggling of foreign fighters across the Syrian-Iraqi border. As West Point's review of the Sinjar documents concluded, "Large groups of people—such as foreign fighters—cross the border in remote locations, often using the same tracks and trails as the livestock smugglers. In fact, the same ring of smuggling guides will often move both livestock and human beings."[31] This untidy mix of insurgents, terrorists, professional smugglers, and corrupt government officials provides multiple opportunities for financial gain for all parties involved.

A review of AQI records seized in Iraq, conducted by the Combating Terrorism Center at West Point, found that a robust facilitation network in Syria has helped foreign fighters travel in to Iraq. According to these seized documents, AQI has relied on at least ninety-five different Syrian "coordinators" to provide such services. Illustrating a sense of how well organized this system was, the coordinators appeared to specialize in working with prospective foreign fighters and suicide bombers from specific locales. For example, one Syrian coordinator worked primarily with Saudi clients.[32]

The trafficking system along the border area is generally specialized and is dominated by local, independent smuggler networks. As material seized in Sinjar province in Iraq reveals,

> In Syria, the trafficking system is organized into independent rings of smugglers, generally transportation specialists who operate within a given territory and pay an established tribute to one of several officials with authority in that area. For example, in the border districts of Dayr al Zayr province, which includes the city of Abu Kamel, the officials would include the local representative of the provincial governor, the head of the city administration, the local army commander, and the head of military intelligence for the province.[33]

In February of 2008, the Treasury Department underscored the findings in the Sinjar documents, designating four members of a key terrorist facilitation and finance network operating out of Syria for supporting AQI. Treasury reported that the "Abu Ghadiyah" network, named for its leader, Badran Turki Hishan al Mazidih (Abu Ghadiyah), controls the flow of much of the money, weapons, personnel, and other material through Syria into Iraq for AQI. According to the Treasury Department, the network "obtained false passports for foreign terrorists, provided passports, weapons, guides, safe houses, and allowances to foreign terrorists in Syria and those preparing to cross the border into Iraq." Indeed, Badran reportedly received several hundred thousand dollars

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[30] "Organized Crime to Be a Growing Problem in Iraq," UNODC Fact-Finding Mission Report, United Nations Information Service, August 27, 2003, available online at, http://www.unis.unvienna.org/unis/pressrels/2003/cp445.html; see also Daniel Glaser, Testimony before the House Financial Services Subcommittee on Oversight and Investigations and the House Armed Services Subcommittee on Terrorism, July 28, 2005.

[31] Bombers, Bank Accounts, and Bleedout: Al-Qai'da's Road in and Out of Iraq. Harmony Project, Combating Terrorism Center West Point. Pp. 87, available online at http://ctc.usma.edu/harmony/pdf/Sinjar_2_July_23.pdf.

[32] Bombers, Bank Accounts, and Bleedout: Al-Qai'da's Road in and Out of Iraq. Harmony Project, Combating Terrorism Center West Point. Pp. 70, available online at http://ctc.usma.edu/harmony/pdf/Sinjar_2_July_23.pdf.

[33] Bombers, Bank Accounts, and Bleedout: Al-Qai'da's Road in and Out of Iraq. Harmony Project, Combating Terrorism Center West Point. Pp. 88, available online at http://ctc.usma.edu/harmony/pdf/Sinjar_2_July_23.pdf.

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from his cousin, another member of the Abu Ghadiyah financial and logistical facilitation network, with which he supported insurgent activity targeting the U.S. military and facilitated the travel of AQI foreign fighters.[34]

Another prime example of the kind of benefits AQI enjoyed from having multipurpose facilitators operating out of Syria is Sa'ad al-Shammari, who took over the foreign fighter facilitation network formerly run by Abu Ghadiyah after the latter was killed in a U.S. raid across the Iraqi border into Syrian territory in October 2008. According to the Treasury Department's terrorist designation in May 2009, al-Shammari was "a senior leader of AQI's Syria-based facilitation network." Deeply involved in foreign fighter facilitation, he and others transported terrorists from Syria into Iraq. At one time he directed an AQI facilitator to recruit young North Africans for the group, and is suspected of helping to facilitate the travel of suicide operatives from the Gulf to the Levant in cooperation with Gulf-based extremist networks. Al-Shammari facilitated the transfer not only of people, but of equipment to AQI networks in Iraq as well.[35]

Abu Ghadiyah's network, and others like it, pump money into the local economy through the purchase of food and provisions of housing for fighters moving through safe houses. The networks additionally provide business opportunities for the local, smuggling-based economy and bribes to the local officials. The Abu Ghadiyah network reportedly maintained safe houses in Damascus and Latakiya as well, investing in local economies in other parts of the country far from the Iraqi border.[36]

While AQI and its foreign fighter networks have not enjoyed state sponsorship in the classical sense, it has benefited from relationships with governments like Iran and Syria. Indeed, while active state sponsorship is increasingly rare, sometimes the greatest contribution a state can offer a terrorist or insurgent group is choosing not to act. As Dr. Daniel Byman has noted, "A border not policed, a blind eye turned to fundraising, or even the toleration of recruitment all help terrorists build their organizations, conduct operations and survive."[37]

While Dr. Byman's statement has generally been true of Syria, in some cases, Syrian support has been more active. For example, in 2003, in the aftermath of the Foley assassination, Amman pressed Damascus to extradite the operation's alleged money-man, Shakr Absi, to stand trial in Jordan. Syria denied the Jordanian request, and Absi was later sentenced to death in absentia for his role in the attack. Syrian officials reportedly claim Absi spent two years in a Syrian prison, though press reports claim he instead ran a suicide bomber training camp in Syria at the time.[38] In 2007 U.S. military revealed that some foreign fighters in Iraq had in fact trained at training camps in Syria.[39]

Consider also the case of Fawzi al-Rawi. In late 2007, the Treasury Department designated al-Rawi – a leader of the Iraqi wing of the Syrain Ba'ath Party – for providing financial and material support to Zarqawi's AQI. The extent of the Syrian role in al-Rawi's activities is noteworthy. Al-Rawi was appointed to his position in the Syrian Ba'ath Party by Syrian President Bashar al-Asad in 2003.

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[34] United States Department of Treasury, "Treasury Designates Members of Abu Ghadiyah's Network Facilitates flow of terrorists, weapons, and money from Syria to al Qaida in Iraq," February 28, 2008, available online at http://www.ustreas.gov/press/releases/hp845.htm.

[35] "Treasury Designates Key al-Qa'ida in Iraq Operative," May 14, 2009, available online at http://www.treas.gov/press/releases/tg132.htm

[36] Robert H. Reid, "U.S. Raid into Syria Casts Light on Smugglers," Associated Press, October 29, 2008

[37] Daniel Byman, "Passive Sponsors of Terrorism," *Survival*, vol. 47, no. 4, Winter 2006-2006, Pp. 117-144.

[38] Testimony of David Schenker, Gates v. Syria, U.S. District Court for the District of Columbia, Civil Action No 06-1500 (RMC), September 2008.

[39] "Three Major Terror Busts in Iraq -- Iran, Syria Connections Exposed, Say U.S. Officials," ABC News, March 22, 2007, available online at http://blogs.abcnews.com/theblotter/2007/03/three_major_ter.html

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According to Treasury, the Iraqi wing of the Syrian Ba'ath Party "has since provided significant funding to Iraqi insurgents and al-Rawi's direction." Indeed, Treasury noted that al-Rawi "is supported financially by the Syrian Government, and has close ties to Syrian intelligence."[40] With the authorization of the Syria regime, al-Rawi twice met with a former commander of Saddam's Hussein's Army of Muhammad in 2004 and told the commander his group would receive material aid from Syria. In 2005, al-Rawi "facilitated the provision of $300,000 to members of AQI," as well as providing AQI vehicle-borne improvised explosive devices, rifles, and suicide bombers, according to Treasury. In meetings with senior AQI representatives in September 2005, al-Rawi and AQI leaders discussed operational issues, including conducting attacks against the U.S. Embassy and concentrating attacks in the international zone.[41]

Ultimately, a truly successful insurgency can become such a successful fundraising enterprise that it can finance activities, with excess funds, beyond the immediate area of operations. Thus, in his July 2005 letter to Abu Musab al Zarqawi, al Qaeda's second in command Ayman al Zawahiri humbly asked the leader of AQI if he could spare "a payment of approximately one hundred thousand" because "many of the lines have been cut off."[42] Additionally, the robust network can be used to transport fighters, money, and goods to other potential jihad locales such as Lebanon, Yemen, and Somalia.

The following year, a February 2006 *New York Times* article referenced a US intelligence community report concluding that the Iraqi Insurgency raised some $70 million to $200 million a year through illegal activities alone and is therefore financially self-sustaining.[43] Under such circumstances, not only could the Iraqi insurgency fund operations outside Iraq with excess funds, but it would also not be constrained by the possible financial costs that could be associated with facilitating the recruitment and transportation of foreign fighters as discussed below.

Benefits to the Host Country (Syria)

As an extension of foreign policy, Syria's tolerance of foreign fighter support networks – and certainly its more active support for Iraqi insurgents – was intended to further Syrian interests in Iraq and deliver other non-economic benefits. According to a Department of Defense March 2007 report to Congress entitled "Measuring Stability and Security in Iraq," Syria has supported insurgents in Iraq for political purposes. According to the report, "Damascus also recognizes that Islamist extremists and elements of the former Iraqi regime share Syria's desire to undermine Coalition efforts in Iraq."[44]

As Anthony Cordesman has noted, Syria has undermined Iraq's political advancement "by providing both active and passive support to antigovernment and anti-coalition forces."[45] In one case, then

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[40] U.S. Treasury Press Release, "Treasury Designates Individuals with Ties to Al Qaida, Former Regime," December 6, 2007, available online at http://www.ustreas.gov/press/releases/hp721.htm

[41] U.S. Treasury Press Release, "Treasury Designates Individuals with Ties to Al Qaida, Former Regime," December 6, 2007, available online at http://www.ustreas.gov/press/releases/hp721.htm

[42] Globalsecurity.org, "Letter from Al-Zawahiri to al-Zarqawi," available online at http://www.globalsecurity.org/security/library/report/2005/zawahiri-zarqawi-letter_9jul2005.htm.

[43] Burns, John F and Kurt Semple, "U.S. Finds Iraq Insurgency Has Funds to Sustain Itself," *The New York Times*, February 26, 2006, available online at http://www.nytimes.com/2006/11/26/world/middleeast/26insurgency.html?_r=2&pagewanted=print&oref=slogin&oref=slogin

[44] "Measuring Stability and Security in Iraq," Department of Defense Quarterly Report to Congress, March 2007, p. 17, available online at www.defenselink.mil

[45] Anthony Cordesman,"The Department of Defense Quarterly Report on Stability and Security in Iraq: The Warning Indicators," CSIS, December 22, 2006, available online at http://www.csis.org/media/csis/pubs/061222_dodreport_iraq.pdf

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U.S. Ambassador to Syria Theodore Khattouf complained to Syrian authorities that for several months a foreign fighter sign-up station was located across the street from the U.S. Embassy. In response, Syrian officials "moved the signup to Damascus Fair grounds – a government owned property – where it continued its work for months more."[46] In another case, in 2003 U.S. soldiers captured foreign fighters' Syrian passports. Syrian passports were provided in several instances to non-Syrians, and included entry permits marked "volunteer for Jihad" or "to join the Arab volunteers."[47]

That said, the huge boost to local businesses along the border with Iraq – mostly illicit, such as the smuggling of goods and persons – also benefited the Syrian regime by generating jobs and income and freeing the central government from having to invest in remote areas during difficult economic times. While supporting such networks incurred high costs for the Syrian regime, in the immediate term following the fall of the Saddam regime it may have brought significant dividends. According to Iraqi bank records, for example, Saddam himself withdrew over a billion U.S. dollars from Iraqi banks which were then smuggled out of the country in cash. "In Syria the money was managed by Saddam's half-brother, Sabawi Ibrahim al-Hassan al-Tikriti, the former head of the feared Mukhabarat" who was considered at the time by the U.S. "to be the chief financial facilitator of the insurgency in Syria."[48]

Syrian authorities have periodically cracked down on smugglers and tightened control of the borders, but to little effect. For example, the Syrian government constructed a four foot "sand berm" along the border and layed out fallen electricity poles in order to flip smugglers' vehicles.[49] According to U.S. intelligence officer Major Adam Boyd,

> For every example of cooperation from Syria, there are an equal number of incidents that are not helpful…We just captured someone who was trying to escape into Syria nad found out that he's been arrested last November on the Syrian side after the caught him with a bunch of fake passports. But he bribed his way out and managed to get back in. But, again, I don't know I necessarily attribute that to the government as to an individual Syrian border patrol unit.[50]

One reason for the lack of success, as the West Point study of AQI concluded, was the traditionally distant relationship – geographically and otherwise – between the local tribal leadership along the Syrian-Iraqi border and the national leadership back in Damascus:

> The economy is dominated by illicit traffic across the border. Both [the Syrian and Iraqi] national governments have depended, economically and politically, on such traffic, which

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[46] Testimony of David Schenker, Gates v. Syria, U.S. District Court for the District of Columbia, Civil Action No 06-1500 (RMC), September 2008.

[47] Senate Testimony of Deputy Secretary of Defense Paul Wolfowitz, Testimony as Delivered to the Senate Armed Services Committee: Helping Win the War on Terror , Washington, D.C., Tuesday, September 09, 2003, available online at http://www.defenselink.mil/speeches/speech.aspx?speechid=527

[48] Richard H. Shultz Jr. and Andrea J. Dew, *Insurgents, Terrorirsts and Militias: The Warriors of Contemporary Combat* (New York: Columbia University Press, 2006), p. 240.

[49] "U.S. Cross-Border Raid Highights Syria's Role in Islamist Militancy," *CTC Sentinel* Vol.1 Issue 12, November 2008.

[50] Phil Sands, "Syria Stops Insurgents on Iraq Border," *The National,* November 2, 2008.

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imposes limits on the ability of either country to stop cross border trafficking, police the frontier, or stop the cross border flow of militants."[51]

This helps explain the complicated relationship between security forces and smugglers along the border. Whatever jobs and income these illicit networks provide are jobs and income the national government cannot provide. This buffer "saves the government in Damascus from having to invest scarce resources in a region seen as remote from the regime's heartland."[52]

Benefits to the Local Population

Smuggling is indeed a lucrative business, and the foreign fighter pipeline in Syria is believed to have benefitted the local populations on both sides of the Syrian-Iraqi border in the form of jobs, increased cash flow into the local economy, purchase of supplies, staples, and rents. One assessment of the Sinjar documents, assuming all 39 Syrian smuggling contacts in the Sinjar records received an equal share of the cut from foreign fighters, concludes that each Syrian would earn more than $3,000 over the course of the year.[53] Fifty-three of the ninety-three Syrian Coordinators, identified by name in the Sinjar records, were paid by the fighters they transported into Iraq. Of these, Saudi fighters alone made forty-six payments averaging $2,535.[54]

The region of Deir ez-Zour is one of Syria's poorest provinces. Under Syrian law, the state receives the profits generated from oil drilled there and therefore the local population does not directly benefit from the region's oil industry.[55] In an area that lacks other significant industry, smuggling is not only well ingrained in society, but also becomes a mainstay of the economy. Whether smuggling refugees, foreign fighters, oil, food staples or weapons, the illegal business of transferring goods and people provides for the local population. However one assesses the annual income of a foreign fighter smuggler or the amounts of bribes paid to local officials, intelligence officers, border officials, and tribal leaders, the amounts are significant enough to conclude that a trickle down effect exists in which the local population benefits from the existence of these smuggling routes.

In Iraq, AQI has filled an economic vacuum caused by sectarian tension. The political fight over control of Mosul and the Nineveh province, between the Sunnis and the Kurds, has prevented the local population from being integrated into the Iraqi economy or the Kurdish regional economy. AQI, therefore, has been able to build a base in the Nineveh province, and fill the void—thereby economically assisting the Iraqis living in these border cities.[56]

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[51] Bombers, Bank Accounts, and Bleedout: Al-Qai'da's Road in and Out of Iraq. Harmony Project, Combating Terrorism Center West Point. Pp. 85, available online at http://ctc.usma.edu/harmony/pdf/Sinjar_2_July_23.pdf.

[52] Bombers, Bank Accounts, and Bleedout: Al-Qai'da's Road in and Out of Iraq. Harmony Project, Combating Terrorism Center West Point. Pp. 88, available online at http://ctc.usma.edu/harmony/pdf/Sinjar_2_July_23.pdf.

[53] Clint Watts. "Countering Terrorism from the Second Foreign Fighter Glut," *Small Wars Journal* (2009), 8.

[54] "The payments ranged from $19 to a surprising $34,584 in the case of Adil Muhammad Abdallah Ruwayhil, a power company employee from Tabuk who spent six days in Syria before entering Iraq to conduct a suicide bombing." Bombers, Bank Accounts, and Bleedout: Al-Qai'da's Road in and Out of Iraq. Harmony Project, Combating Terrorism Center West Point. Pp. 48, available online at http://ctc.usma.edu/harmony/pdf/Sinjar_2_July_23.pdf.

[55] "U.S. Cross-Border Raid Highights Syria's Role in Islamist Militancy," *CTC Sentinel* Vol.1 Issue 12, November 2008.

[56] "Dysfunction and Decline: Lessons Learned from Inside Al Qa'ida in Iraq," Harmony Project, Combating Terrorism Center at West Point. Pp 24.

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IV. Costs of Foreign Fighter Networks

Costs to the Insurgent Group (AQI)

While smuggling and facilitation coordinators like Abu Ghadiyah have played an important role for AQI, they also posed difficulties the group since many of these coordinators were motivated more by money than by loyalty to the terrorist group. According to the Sinjar records, AQI experienced difficulties in funding stemming from financial disputes with Syrian coordinators. In 2006 "Shahin the administrator" reported that there was a shortage of funds in 2006 "[because] the money didn't arrive with the suicide brothers, and the coordinating brothers in Syria kept the money."[57] Indeed, Abu Ghadiyah himself is reported to have used AQI funds for his personal use.[58]

AQI managers should not be surprised by such skimming of funds, a phenomenon with a long track record within Al Qaeda affiliated groups. Employing facilitators who may lack ideological commitment can translate into both financial losses and poor operational security. Jamal Al-Fadl, one of al Qaeda's first operatives, began embezzling funds from the group during its years in the Sudan, based on his displeasure with his salary; he stole approximately $100,000 in all. When Bin Ladin learned of al-Fadl's actions, he ordered him to repay the money. After repaying about $30,000, al-Fadl fled, fearing retribution if he did not refund the full amount. [59] Al Qaeda's L'Houssaine Kertchou, on the other hand, became bitter after one of Bin Ladin's aides turned down his request for $500 to cover the costs of his wife's cesarean section. His anger level increased when al Qaeda paid the expenses of a group of Egyptians who were sent to Yemen to renew their passports. "If I had a gun," Kherchtou later testified, "I would shoot [bin Laden] at that time."[60] Ultimately, both al-Fadl and Kertchou left al Qaeda and testified against the organization in U.S. courts.

In addition to coordinators who were not ideologically motivated, overzealous foreign fighters also pose a problem to AQI. These inexperienced foreign fighters often arrive in Iraq without sufficient training. In addition, they are unaware of the political climate in Iraq—including the presence of a large shi'a community, leading to a lack of integration of foreign fighters into AQI's local community. According to a document captured in 2008, the problems above led AQI to reject foreign fighters coming into Iraq.[61]

One of the largest costs insurgent groups incur is assuming financial responsibility for the families of foreign fighters. Materials found among the Sinjar documents, for example, reveal that "the majority of the permanent manpower appears to have families requiring support."[62] So while foreign fighters provide a variety of tangible benefits to the insurgency, the financial support required for the family of a foreign fighter is a significant cost.

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[57] Bombers, Bank Accounts, and Bleedout: Al-Qai'da's Road in and Out of Iraq. Harmony Project, Combating Terrorism Center West Point. Pp. 53-54, available online at
http://ctc.usma.edu/harmony/pdf/Sinjar_2_July_23.pdf.
[58] United States Department of Treasury, "Treasury Designates Members of Abu Ghadiyah's Network; Facilitates flow of terrorists, weapons, and money from Syria to al Qaida in Iraq," February 28, 2008, available online at http://www.ustreas.gov/press/releases/hp845.htm.
[59] Fadl testimony in US v. Usama Bin Ladin, et al, February 7, 2001.
[60] Kherchtou testimony in US v. Usama Bin Ladin, et al.
[61] "Dysfunction and Decline: Lessons Learned from Inside al-Qa'ida in Iraq," Combating Terrorism Center West Point. P 16-17.
[62] Bombers, Bank Accounts, and Bleedout: Al-Qai'da's Road in and Out of Iraq. Harmony Project, Combating Terrorism Center West Point. Pp. 93, available online at
http://ctc.usma.edu/harmony/pdf/Sinjar_2_July_23.pdf.

Finally, insurgents traditionally seek to discredit the government they are fighting and breed dependency on the part of local populations through low intensity conflict warfare targeting local political and economic interests. Later, they may seek to control territory. Note, for example, that the Abu Ghadiyah network "planned to use rockets to attack multiple Coalition forces outposts and Iraqi police stations, in an attempt to facilitate an AQI takeover in Western Iraq," according to information released by the Treasury Department.[63] In both cases, insurgents have to assume a level of financial responsibility for the local economy while increasing the costs of the insurgency and also building grassroots support among local populations.[64]

Costs to the Host Country (Syria)

Countries that host foreign fighter facilitation networks risk incurring both political and economic consequences. Ultimately, violent extremists tolerated and supported by the host country may turn against it and pose a threat within the country and/or to the regime itself.

For example, in October 2007 Sheikh Abdel-Aziz Al-Asheikh, the Grand Mufti of in Saudi Arabia, announced a fatwa instructing Saudis not to leave the Kingdom to participate in jihad – a statement directed primarily at those considering going to Iraq, often passing through Syria.   Al-Asheikh said that he decided to speak up, "after it was clear that over several years Saudis have been leaving for jihad" and that "our youth…became tools carrying out heinous acts." Al-Asheikh also addressed potential donors, urging them to "be careful about where [their money is] spent so it does not damage Muslims."[65] Beyond the obvious, the Grand Mufti's statements were also notable for another reason; they implicitly acknowledged that Saudi Arabia was a source of funds for terrorism. Coming on the heels of attacks within the Kingdom by Jihadists who had fought abroad, the rare public acknowledgment that Saudis were sending funds and sometimes traveling abroad themselves to fight Jihad was telling.

Similarly, the 2006 attack on the U.S. Embassy in Damascus reportedly had a similar effect on the Syrian regime. The four men who attacked the Embassy with grenades and small arms fire killed one security guard and wounded others. Three of the gunmen were killed in the firefight and the fourth was seriously wounded. This attack, according to one U.S. official, served as a "wake-up call" for the Syrian government that fighters from Iraq were returning to Syria and could pose a security threat at home.[66]

Following the October 26, 2008, U.S. cross-border raid which resulted in the killing of Abu Ghadiya, reports by western journalists claimed that the Syrian government cooperated with the U.S. in this raid. According to *The Sunday Times*, Damascus was "complicit" in raid because "Abu Ghadiya was feared by the Syrians as an agent of Islamic fundamentalism who was hostile to the secular regime in Damascus."[67] This cooperation demonstrates Damascus's willingness to crack down on foreign fighters when they threaten Syria's internal security.

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[63] United States Department of Treasury, "Treasury Designates Members of Abu Ghadiyah's Network; Facilitates flow of terrorists, weapons, and money from Syria to al Qaida in Iraq," February 28, 2008, available online at http://www.ustreas.gov/press/releases/hp845.htm.

[64] For more on this, see R.T Naylor, "The Insurgent Economy: Black Market Operations of Guerilla Organizations," *Crime, Law and Social Change*, 2004.

[65] "Saudi Cleric Issues Warnings Over Militants." Reuters, October 1, 2007, available online at, http://www.reuters.com/article/topNews/idUSL0117164820071001?feedType=RSS&feedName=topNews

[66] Author interview with U.S. Government subject matter expert, Washington DC, February 28, 2008.

[67] Marie Colvin and Uzi Mahnaimi, "Questions Raised over Syrian Complicity in U.S. Raid," *The Sunday Times,* November 2, 2008.

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In addition to the security threat posed by the foreign fighters, Syria has also been targeted by sanctions for its support of foreign fighters. Syria is the longest-standing member of the U.S. State Department's list of state sponsors of terrorism, having been so designated in 1979. As a result, Syria has long been subject to a series of sanctions, including several trade-related restrictions, such as bans on arms sales and control over exports of dual use items, as well as prohibitions on financial aid.[68] According to the 2008 State Department Country Report, released April 30, 2009, "despite acknowledged reductions in foreign fighter flows [from Syria], the scope and impact of the problem remained significant."[69] The report continued:

> Syria continued to allow former Iraqi regime elements to operate in the country. Attacks against Coalition Forces and Iraqi citizens continued to have a destabilizing effect on Iraq's internal security. Though Syrian and Iraqi leaders met throughout the year both publicly and privately to discuss border enhancements and other measures needed to combat foreign fighter flows, there were few tangible results. While Syria has taken some positive steps, the Syrian government could do more to interdict known terrorist networks and foreign fighter facilitators operating within its borders."[70]

In addition to the punitive measures associated with Syria's status as a state sponsor, the U.S. Administration has taken other steps to try and ratchet up the economic pressure against Damascus and Tehran for their terrorist activities. In targeting Syria, the Administration has focused not only on its support for terrorism, but on a broader array of illicit activity. In terms of terrorism, the most important U.S. government action was the 2006 Treasury blacklisting of the Commercial Bank of Syria – the major player in the Syrian financial sector – for its support for terrorism, among other illicit activity. [71] One reason the U.S. government listed CBS as a "primary money laundering concern" is that "Treasury investigators found that the Syrian government had paid out approximately $580 million in claims to Syrian businesses [from Iraqi government funds in Syria] without the authorization of SOMO [Iraqi State Oil Marketing Organization], and that $262 million remained frozen in an account at the Commercial Bank of Syria."[72]

In 2003 Congress passed the Syrian Accountability and Lebanese Sovereignty Restoration Act which cites, among other issues, the fact that Syria allows terrorist groups to operate within its territory and permits the flow of goods and fighters into Iraq, as reasons for sanctioning the regime. Included among the findings in the legislation are the March 2003 statement by Syrian Foreign Minister, Farouq al-Sharra, that "Syria's interest is to see the invaders defeated in Iraq"[73] and the April 2003 statement by then-Secretary of Defense Donald Rumsfeld that "busloads" of Syrian fighters entered

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[68] State Department Website, available online at http://www.state.gov/s/ct/c14151.htm.

[69] "State Sponsors of Terrorism," Country Reports on Terrorism 2008. Office of Coordinator for Counterterrorism, US State Department, April 30, 2008. Available Online at
http://www.state.gov/s/ct/rls/crt/2008/122436.htm

[70] "State Sponsors of Terrorism," Country Reports on Terrorism 2008. Office of Coordinator for Counterterrorism, US State Department, April 30, 2008. Available Online at
http://www.state.gov/s/ct/rls/crt/2008/122436.htm

[71] Treasury Press Release on the Section 311 Proposed Rule against the Commercial Bank of Syria, May 11, 2004, available online at http://www.ustreas.gov/press/releases/js1538.htm.

[72] Daniel Glaser, Testimony before the House Financial Services Subcommittee on Oversight and Investigations and the House Armed Services Subcommittee on Terrorism, July 28, 2005.

[73] Syrian Accountability and Lebanese Sovereignty Restoration Act, Section 2.31

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Iraq with "hundreds of thousands of dollars" and leaflets offering rewards for dead American soldiers.[74]

The President also issued several executive orders directed at Syria, which have targeted the Syrian elite involved in corruption,[75] actors involved in interfering in the internal affairs of Lebanon,[76] and former Iraqi regime elements supporting the insurgency—some of whom were in Syria. [77] A number of top Syrian officials have been designated by the Administration using these authorities. In addition, in response to the Syria Accountability Act of 2003, the President issued an order implementing this legislation, which restricted further trade between the two countries and prohibited Syrian aircrafts from landing in the U.S.[78]

There is evidence that the Syrian Accountability Act and successive targeted financial sanctions have dissuaded U.S. and some foreign businesses from investing in Syria. According to one report, General Electric, the French power company Alstom, and Japanese-owned Mitsubishi all declined to bid on a Syrian government contract for the construction of power plants.[79] Turkcell withdrew its bid to purchase Syriatel in August 2008 after the United States sanctioned Syriatel's primary stakeholder, Rami Makluf.[80] Sanctions have also crippled Syria Air, the state airlines, by preventing the company from purchasing parts or planes for its Boeing fleet.[81] Meanwhile, U.S. sanctions under the Patriot Act against the Commercial Bank of Syria have deterred private Western banks from opening branches inside Syria.[82] As Syria's energy production levels decline, sanctions have prevented major Western energy companies from making new investments there, although other foreign companies have supplanted U.S. firms. One company, Gulfsands Petroleum, moved its principle office to London in order to circumvent U.S. sanctions against its local partner, Rami Makluf.[83]

On the other hand, U.S. economic sanctions have had a limited impact on U.S.-Syrian bilateral trade, according to a Congressional Research Service study. U.S. commodity exports to Syria are permitted under U.S. law, and the combination of rising cereal prices and increased U.S. exports combined to increase the overall volume in trade with Syria in 2008. According to CRS, "U.S. brands manufactured outside the United States are widely available inside Syria," including GM cars manufactured in South Korea and Coca Cola products bottled in Syria.[84]

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[74] Syrian Accountability and Lebanese Sovereignty Restoration Act, Section 2.32
[75] Press Release on the designation of Rami Makhluf, February 21, 2008 available online at, http://www.treas.gov/press/releases/hp834.htm.
[76] Press Release on the designation of Asif Shawkat, January 18, 2006, available online at, http://www.treas.gov/press/releases/js3080.htm.
[77] Testimony of Treasury acting Assistant Secretary Daniel Glaser, July 28, 2005, available online at, http://www.treas.gov/press/releases/js2658.htm.
[78] Testimony of Washington Institute Senior Fellow David Schenker before the House Committee on International Relations, available online at, http://www.washingtoninstitute.org/templateC07.php?CID=296.
[79] Hugh Naylor. "Tired of Energy Ills, Syrians Doubt the West is to Blame," *New York Times*, August 15, 2007.
"[80] Rami Makhluf Designated for Benefiting from Syrian Corruption," February 21, 2008, available online at, http://www.treas.gov/press/releases/hp834.htm; Ercan Ersoy, "Turkcell Continues Talks on Syriatel Stake," *Reuters*, April 14, 2008.
[81] Andrew Tabler, "Global Economic Crisis Boosts Utility of U.S. Sanctions on Syria," Washington Institute for Near East Policy, February 26, 2009.
[82] "Treasury Designates Commercial Bank of Syria as Financial Institution of Primary Money Laundering Concern," May 11, 2004, available online at http://www.treas.gov/press/releases/js1538.htm
[83] Jeremy M. Sharp, "Syria: Background and U.S. Relations," Congressional Research Service, March 11, 2009, p 16.
[84] Jeremy M. Sharp, "Syria: Background and U.S. Relations," Congressional Research Service, March 11, 2009. p 16-17.

Indeed, the Syrian economy has achieved a 5% average annual economic growth rate over the past five years, due primarily to high oil prices and investments from the Gulf. Nevertheless, recent downturns in sectors of the Syrian economy capitalize on the possible effect of sanctions against Syria. A three year drought has crippled Syrian agriculture—23% of the GDP, and oil production revenues have decreased 30% in the past five years. These economic woes coupled with the lack of foreign direct investments in Syria, inhibited by U.S. sanctions, will lead to further damage of the Syrian economy.[85]

Costs to the Local Population

Within the territory targeted by insurgents, in this case Iraq, the local population suffers the immediate consequences of both full scale warfare and low intensity attacks targeting the local infrastructure and economy. Often, insurgents seek to gain control of territory and destroy the existing socio-economic infrastructure with the aim of replacing it with their own "socio-economic infrastructure, an economic system created exclusively to feed the armed struggle."[86] According to one military expert,

> State sponsors or groups which set up foreign fighter training facilities in these countries will have an initially positive effect on the local economy because the initial phase is like a courtship which usually starts with the building of schools, mosques, or possibly localized heath care, then as the infrastructure matures the benefits for the local populace begin to recede as the true focus of the group's presence becomes apparent. While they will maintain cordial relations with locals, those [who are] not affiliated with the group or [who are not] likeminded individuals will see little to no support.[87]

In terms of the cost to the local Iraqi population, it is worth noting that the Transparency International Corporation ranked Iraq as the most corrupt country in the Middle East and 129th out of 145 countries ranked.[88] In addition to corruption, criminal networks took over smuggling routes that were previously linked to local tribes -- especially when it came to smuggling oil siphoned from pipelines – cutting into local tribes' traditional streams of revenue.[89] This smuggling amounted to a significant amount of money, considering that that Baghdadi oil ministry estimated in 2005 that approximately 10% to 30% of imported fuel was ultimately smuggled out of Iraq.[90] In 2008, the Iraq Study Group found that corruption is "debilitating." The report cited expert estimates that "150,000 to 200,000—and perhaps as many as 500,000—barrels of oil per day are being stolen." The consequence for local populations is clear: "Controlled prices for refined products result in shortages within Iraq, which drive consumers to the thriving black market…corruption is more responsible than insurgents for the breakdowns in the oil sector."[91]

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[85] Andrew Tabler, "Global Economic Crisis Boosts Utility of U.S. Sanctions on Syria," Washington Institute for Near East Policy, February 26, 2009.

[86] Loretta Napoleoni, "Money and Terrorism," *Strategic Insights* V.3 Issue 4 (April 2004).

[87] Author interview with Department of Defense subject matter expert, June 12, 2009.

[88] Robert Looney, "Economic Consequences of Conflict: The Rise of Iraq's Informal Economy," *Journal of Economic Issues* (2006). p 8.

[89] Author interview with US Government subject matter expert, Washington DC, February 28, 2008.

[90] Burns, John F and Kurt Semple, "U.S. Finds Iraq Insurgency Has Funds to Sustain Itself," *The New York Times*, February 26, 2006, available online at
http://www.nytimes.com/2006/11/26/world/middleeast/26insurgency.html?_r=2&pagewanted=print&oref=slogin&oref=slogin.

[91] Chester Oehme III, "Terrorists, Insurgents, and Criminals—Growing Nexus? *Studies in Conflict and Terrorism* no.31 2008. p 86.

Inevitably, pressure on the Syrian regime to crack down on longstanding smuggling networks that prop up the local economy will come face-to-face with the reality that the central government lacks the will and possible the means to step in and fill this economic gap.

V. The Way Forward

One reason AQI and other insurgents in Iraq have been so successful in Iraq is because their facilitation networks have successfully raised and transferred funds, recruited and transported fighters, and procured and moved weapons and goods – mostly through Syria. Shutting down these networks and starving the insurgency of its supply of material, funds and manpower is a critical component of any successful counterinsurgency campaign. But convincing and enabling Syria to take the necessary steps to shut down the smuggling pipelines will require something more than just economic sanctions.

The various ways in which foreign fighter and other smuggling networks impact host countries and local populations, however, suggest that there are several steps that could be taken – and some to be avoided – to successfully separate insurgents from their suppliers and supply routes.

It should be stated from the outset that, given the relatively strong return on minimal financial investment, Syrian support for insurgents and terrorists will remain an attractive option for the regime in Damascus so long as it continues to be a viable and productive means of furthering the regime's domestic and foreign policy goals. And given the financial interests of local and national officials, cracking down on established smuggling networks (and thereby threatening the regular payments that supplement officials' income) is no easy task. A multi-faceted approach to the foreign fighter facilitation network problem is therefore required, including:

- A plan to backfill the local economies with jobs and services to replace the losses sure to follow the shuttering of the smuggling economy;
- An anti-corruption and civil society campaign aimed at breaking the traditional and deeply ingrained culture of bribing people in positions of authority as the cost of doing business;
- Robust efforts to secure political stability in Iraq generally and specifically in areas controlled or largely influenced by insurgents;
- Diplomatic efforts to address the underlying policy concerns that have led Syria to support insurgents and terrorists as a means of furthering domestic and foreign policy;
- Finally, all efforts on the Syrian side of the border will have to be replicated by concurrent and parallel efforts on the Iraqi side of the border.

At the end of the day, however, political and diplomatic efforts may fall short, in which case targeted financial sanctions – focused on illicit activity, authority figures engaged in criminal or other activity threatening regional security, and corruption – present an attractive second option. Combined with regional diplomacy employing a variety of countries' efforts to cajole Damascus when possible and sanction the regime when necessary, sanctions can at least increase the costs to the regime of its continued belligerent behavior. Sanctions alone will never solve national security problems, but when used in tandem with other elements of national power in an integrated, strategic approach they can be very effective.

Were the shadow economy of smuggling enterprises to contract, the most critical and time sensitive issue would be to successfully jumpstart legitimate economic growth in its place. In the words of General Sir Frank Kiston, "The first thing that must be apparent when contemplating the sort of

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action which a government facing insurgency should take, is that there can be no such thing as a purely military solution because insurgency is not primarily a military activity."[92]

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[92] Quoted in Bruce Hoffman. *Insurgency and Counterinsurgency in Iraq.* Santa Monica: Rand Corporation, 2004. p 39. Originally from Quoted in DGD&D 18/34/56 Army Code No 71596 (Pts 1 & 2), *Army Field Manual, vol. V, Operations Other Than War,* "Section B: Counter Insurgency Operations, Part 2 The Conduct of Counter Insurgency Operations," (London: Prepared under the direction of the Chief of the General Staff, 1995), p. 3-1.

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Walking a Fine Line: Foreign Fighters and Syria

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In March 2006 I gave a talk on President Bashar al-Asad and Syria at the Center for Strategic and International Studies in Washington, DC. I happened to be in the camp at the time that was pointing out the potential benefits and advocating the establishment of a dialogue with Syria and its president, with whom I have been meeting on a regular basis since May 2004. After my talk, a foreign policy advisor on Vice President Dick Cheney's staff came up to me and stated that he understood what I was saying regarding my topic. He then grew more animated, waved his finger in my face and bellowed, "but those sons of bitches are killing our boys in Iraq!" He was obviously referring to the regime in Syria.

It was at this moment that I realized what an intuitively visceral issue this had become with at least some important members of the Bush administration. Administration officials were quite simply inordinately pissed off that Syria was not doing all it could to help prevent foreign fighters or so-called *jihadists* from traversing Syria and then crossing the border into Iraq, fueling an insurgency that at the time had bogged down American efforts there and sullied the reputation of the Bush team. There was genuine anger at Syria, and there continues to be a residue of this anger in Washington that could be re-ignited if it is suspected that Syria is not cooperating in stemming the flow of foreign fighters into Iraq. Sometimes emotional responses are not factored into the equation regarding policy objectives or rationale because they are difficult if not impossible to measure. I learned on that March day in 2006, however, that in fact they have played and may continue to play a role in the U.S.-Syria dynamic, especially as it relates to the situation in Iraq.

My response to Vice President Cheney's staffer was two fold. First, I mentioned that I volunteered (actually my wife is the real active volunteer, and I was honored to tag along on occasion) at the Brook Army Medical Center (BAMC) in San Antonio, Texas. BAMC's burn center is the primary treatment facility for burned soldiers flown in from Iraq and Afghanistan. In other words, it is plausible that some of the severely burned soldiers who I met and befriended at BAMC, many of whom have since passed away, were maimed by improvised explosive devices or suicide bombings that were facilitated in some form or fashion by the very man I had been meeting on a regular basis in Damascus. So, yes, I was angry about this state of affairs as well because I saw up close and personal the end result.

Second, I told him that he, and by inference other like-minded administration officials, needed to role play and view the world as seen from Damascus in order to better understand Syria's motivations and policy objectives in supporting the Iraqi insurgency by at the very least casting a blind eye toward foreign fighters using Syrian territory to cross over into Iraq. If he performed this mental exercise, he would find that when President Bashar al-Asad looked out from Damascus, he saw that he was virtually surrounded by actual or potential hostile forces. Much as his father had done when backed against the wall in 1982 and 1983 amid a domestic Islamist uprising and the Israeli invasion of Lebanon, Bashar understood he had to fight back in an asymmetrical fashion that foiled perceived U.S. threats yet did not incur the wrath of the United States in the form of a full-fledged military response. It was a fine line to walk.

Bashar al-Asad had come to power in 2000 amid a threatening regional environment. The al-Aqsa intifada had erupted a few months after he became president. Then in rapid succession occurred 9/11, the U.S. invasion of Afghanistan, and then the U.S. invasion of neighboring Iraq. The rules of the game were changing, and they were being dictated by the Bush administration in a way that placed Syria on the outside looking in.

Since the early 1970s Syria had been able to play both sides of the regional and international fences. Hafiz al-Asad relished this position, and it allowed him to select which side of the fence to be on based on the circumstances of the day. He was, after all, a foreign policy pragmatist. Syria alone among the major Arab players in the Middle East could play this role. On the one side of the fence Syria is the cradle of Arab nationalism, at the forefront of the confrontation states in the Arab world arrayed against Israel, and supportive of groups such as Hizbullah and Hamas. It has also not given into what in the region in recent years has often been called the "American project." On the other side of the fence Syria sent troops to support the U.S.-led UN coalition forces that evicted Iraq from Kuwait in the 1991 Gulf war. Damascus has also entered into indirect and direct negotiations with Israel for over three decades, often with U.S. brokerage, coming tantalizingly close to an Israeli-Syrian peace deal in 1999-2000.

The Bush administration basically told Damascus that it could no longer play both sides of the fence. It had to choose one side or the other. After intelligence cooperation on al-Qaida following 9/11 between the two countries (which led one U.S. official to state that Syria has saved American lives), relations began to unravel with the U.S. invasion of Iraq, which Syria opposed. Essentially, Bashar al-Asad did not adequately adjust to the important underlying changes in American foreign policy after 9/11, which heightened Syria's exposure to U.S. regime change rhetoric, especially as the Bush doctrine defined U.S. policy. Damascus thought the old rules of the game were in place, and administration officials periodically led them to believe this was the case. The Syrians may have been guilty of selectively hearing what they wanted to hear. But at the same time, the new rules of the game were being written in Washington in the corridors of Congress, the Pentagon, the Vice President's office, and influential conservative think tanks by those who saw Bashar and his regime as part of the problem rather than the solution. The focus of foreign policy power in the Bush administration shifted away from the State Department as the wars in Afghanistan and Iraq commenced and progressed, leading to a more bellicose posture vis-à-vis Syria. State Department officials, including Secretary of State Colin Powell, made comments from time to time praising Syria's cooperation against jihadists crossing over into Iraq, which reassured Damascus that, perhaps, the old rules still applied, but in hindsight these statements carried little weight in the U.S. foreign policymaking apparatus as Powell and the State Department in general were marginalized.

Thus Bashar's continued verbal assaults on Israel and support for Hizbullah and Hamas well into 2003 played right into the hands of the ascendant group of U.S. foreign policy ideologues. Bashar was relatively unaware that he and his regime were becoming more of a target. As President Bush stated on June 24, 2003, "Syria must choose the right side in the war on terror by closing terrorist camps and expelling terrorist organizations." Syria assumed that the clear differences between al-Qaida on the one hand and Hamas/Hizbullah on the other were self-evident, as they were understood by most in the region. But these distinctions were apparently lost on the Bush administration.

No longer could the differences between Washington and Damascus be resolved as part of a Syrian-Israeli peace process; Syria now had to meet all of Washington's concerns before negotiations could even begin with Israel. From the point of view of Damascus, this was a nonstarter, for it would entail relinquishing its few remaining assets, such as its ties with Hizbullah, Hamas, and Iran before the initiation of peace talks. As a result, Syria was considered by the Bush administration as a rogue state, and a series of accusations were hurled against the regime in Damascus with the U.S. invasion of Iraq, from harboring Saddam Hussein regime members and hiding Iraq's WMD to supplying military equipment to Iraqi fighters. The most pointed

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accusation of all, however, would only gain momentum as the Iraq insurgency took shape: that the Syrian regime was actively assisting the insurgency with financial and logistical assistance. Now, according to U.S. officials, Syria was *costing* U.S. lives. It had crossed the line. Typical of U.S. comments was one by a CENTCOM official who said, "If Americans are dying in Iraq because of Syrian policies, then this is something we are not going to tolerate."[1] Even as the Bush administration shifted its emphasis toward promoting democracy in the region, especially in Lebanon, Syria's authoritarian regime became a natural target. With the international revulsion over the assassination of former Lebanese prime minister Rafiq Hariri in February 2005, under orders from Damascus in Washington's view, the subsequent Cedar revolution in Lebanon, the evacuation of remaining Syria troops from the country by April, and the initiation of a UN investigation into the Hariri murder, Bashar was clearly on the defensive, and regime change in Damascus seemed to be just a matter of time.

In response to these accusations from the United States, Bashar told me in 2004 that, "some see me as bad, some see me as good—we don't actually care what terms they use. It is not right to apply this term to Syria— I mean, look at the relationship that Syria has with the rest of the world; if you have good relations with most of the rest of the world, you are not a rogue state just because the United States says you are."

Weathering these multiple storms took a great deal of ability—with a little bit of luck thrown in. Bashar al-Asad is no longer the untested, inexperienced leader. No one remains as president in Syria for nine years without being capable. Bashar was often portrayed negatively when cast against his father in Middle East circles, but one must remember that Hafiz al-Asad was not *Hafiz al-Asad* the clever, tough leader and shrewd negotiator overnight. He, too, had a learning curve, part of which was being taken to the diplomatic cleaners on separate occasions by Egyptian President Anwar Sadat and U.S. Secretary of State Henry Kissinger during and after the 1973 Arab-Israeli war.

Bashar had to tread very carefully. As seen from Damascus, the invasion of Iraq implanted 150,000 U.S. troops in a country on its eastern border, armed with the Bush doctrine and fresh off a swift, and to the Syrians shockingly easy, military removal of the only other Ba`thist regime on earth. To the north was Turkey; and while Syria had markedly improved its relationship with Ankara, it was still a member of NATO. To the south, of course, was Israel as well as Jordan, with which it had a long-standing mercurial relationship and in any event was a U.S. ally. The only friendly neighbor was Lebanon, and even there various domestic factions were agitating more assertively for a Syrian troop withdrawal and less Syrian interference, something that became a reality after the Hariri assassination.

In the fresh glow of the Bush administration's "mission accomplished" in 2003, several implicit threats were hurled at Damascus that Syrian officials took *very* seriously. Syria could be next on the Bush doctrine's hit list. As such, it is no surprise the Syrian regime at the very least cast a blind eye toward insurgents crossing over into Iraq. Damascus wanted the Bush doctrine to fail, and it hoped that Iraq would be the first and last time it was applied. Anything it could do to ensure this outcome, short of incurring the direct military wrath of the United States, was considered fair game.

While certainly under pressure from the United States to do more on the border, Bashar also had to face a domestic constituency that identified strongly with the Iraqi insurgency. The Syrian regime was caught a bit off guard by the popular reaction in the country against the U.S.-led invasion of Iraq, particularly as manifested among Sunni Muslim *salafist* groups. Because Bashar still had not solidified his hold on power, he could not afford to be seen as doing Bush's bidding—nor did he want to. In fact, the more the United States pressured Syria, the more it compelled Bashar to appeal to a combination of Arab, Syrian, and Islamic nationalism to strengthen his base of support. As U.S. pressure accelerated following the Hariri assassination, Bashar drummed up a nationalistic response that reinforced the portrayal of internal critics of the regime as

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[1] *American Foreign Press Service News Articles*, "Syria-U.S. Relationship Facing Major Deterioration," by Jim Garamone, September 27, 2004.

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being accomplices of the West. In addition, the external threat environment gave the regime something of a free pass to crack down on civil society and democracy activists, some of whom in and outside of the country were in contact with and being supported by the Bush administration. With chaos reigning in Iraq and instability growing in Lebanon, it was not hard to remind the Syrian populace that U.S.-promoted democracy could likewise rip the fabric of its own society apart. Trying to walk a fine line, Bashar took some measures along the Iraqi border, but by 2005 it was clear that the United States had sunk into an Iraqi quagmire and not in a position to turn its guns against Syria. At this time, there was little harm in meeting some of the U.S. concerns; after all, it emerged soon enough that Damascus and Washington have a shared interest in stability in Iraq, and this is one area where the two countries could focus upon when they decide to improve the bilateral relationship.

The Pipeline

Foreign fighters clearly entered Iraq through Syria, and they are still doing so even if at a greatly decelerated rate. This is not a debatable point. Syrian officials will not deny this. The argument is over whether or not the Syrian regime aided and abetted the foreign fighters. Syrian officials from President Bashar on down will repeat as a mantra that Syria has been and is doing the best it can with limited resources to prevent insurgents from crossing over the border into Iraq. The next line Syrian officials usually proffer is to compare their situation with that of the United States along its border with Mexico, i.e. that the strongest and richest country in the world cannot even come close to hermetically sealing the border to illegal immigrants. If the United States cannot do it, how can a relatively poor country such as Syria accomplish the task. It is a legitimate argument, if also a convenient one. Certainly the Bush administration believed this argument was for the most part disingenuous.

A high-level U.S. official in Syria at the time of the war in Iraq in 2003 suggested Syria was sending materiel to Iraq, but that Bashar did not authorize it; if anything, he was looking the other way. Some of Bashar's inner circle, probably in the military-security apparatus, made a "killing" with contraband shipped to Iraq, particularly a cousin of Bashar's in the republican guard, Dhu Himma al-Shalish, who has been described as highly corrupt and heavily involved in smuggling items in and out of Iraq.[2] Indeed, the monetary aspect of cross-border smuggling, oil before the 2003 invasion and insurgents afterward, seems to be the primary motivating element with smuggling mafias that have ties to the regime. Bashar apparently knows in general terms that this stuff was going on, but it was not necessarily regime policy. At the very least, however, it served objectives of the regime even if it did not adopt an active posture. It has been stated that the illicit contraband trade with Syria is something Bashar's father would not have permitted because it would have run against his national security policy. According to some regime insiders, Bashar apparently was quite frustrated over all of this, that in a sense he *had* to cast a blind eye toward these activities. This clearly indicates that at the time he had yet to develop the power base and legitimacy that his father enjoyed that would have allowed him to act more forcefully in this regard. The Syrian response regarding infiltration into Iraq is that the border is too long (400 miles) to control tightly. Considering Syrian limitations militarily in equipment, skilled personnel, and funding, in addition to corruption among border security guards and in the security services in connivance with tribal blocs that are on both sides of the border, this is anything but an outlandish rationalization on the part of Damascus.

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[2] Middle East Intelligence Bulletin (MEIB) detailed copies of documents seized at one of Saddam's military procurement companies obtained by two *Los Angeles Times* reporters: "Files from the Baghdad office of Al-Bashair Trading company show that a Syrian company, SES International Corp., signed more than 50 contracts to supply arms and equipment worth tens of millions of dollars to Iraq's military prior to the war. The general manager of SES, Asef Isa Shaleesh [Shalish], is a first cousin of Assad, and one of its major shareholders, Maj. Gen. Dhu Himma Shaleesh, is a relative of Assad who heads an elite presidential security corps." MEIB, "Assad's Desperate Diplomacy," vol. 6, no. 1, January 2004. MEIB is published by the United States Committee for a Free Lebanon and the Middle East Forum, both of which are committed to removing Syria from Lebanon and have adopted a harsh attitude toward Bashar al-`Asad; their reporting is certainly tendentious on occasion, but a number of their analyses and surveys are reliable.

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Fortunately from the point of view of Damascus, the Americans began to get bogged down in Iraq. U.S. forces were generally not welcomed with open arms, especially as basic infrastructure needs were not met in the expected manner, security and stability deteriorated in most part of the country, and Iraqi exiles tended to dominate the local American-controlled political structure to the exclusion of indigenous elements. The premature disbanding of the Iraqi army and the de-Baathification process added to the ranks of the angry and disaffected, who over the course of time seemed to team up with an amalgam of former members of the Sunni ruling clique under Saddam and foreign jihadists exploiting the chaotic opportunities to attack the United States. They rallied more disillusioned youth throughout the Muslim world to their cause and Iraqi nationalists who would oppose an occupation force of any size, shape, or color. Bashar could take a deep sigh of relief. As long as the United States was ensconced in the deepening quagmire in Iraq, the less enthusiasm and ability it would have to widen the neo-conservative agenda toward Syria. As one U.S. military source stated in April 2004, a full year after the invasion began, "The Syrians know America can bark a lot, but what else can we do?"[3]

Bashar tried to balance interests and threats: he wanted the Bush doctrine to fail in Iraq but he could not be seen to be actively promoting its failure by openly assisting the Iraqis—to be blunt, he did not want to anger the United States too much. On the other hand, he also wanted to send a distinct message to Washington that Syria could do to the United States in Iraq something similar to what it had done to U.S. forces in Lebanon in the 1980s—or at least he wanted the United States to *think* he had this type of leverage, that he could control the stream of water coming out of the faucet. In Lebanon, the conflict ended with the ignominious departure of American troops in early 1984 amid a broken down and divided country left open to Syrian designs. He had to at least have plausible deniability, however, which was a given since there was not much he could have done at the time anyhow to crack down on elements in Syria that were close to the regime. From the point of view of Washington, however, this meant one of two things: either Bashar was a conniving despot trying to manipulate the situation at the cost of American lives or he was powerless to comply with American demands. Either scenario was dangerous, but perhaps the answer lies somewhere in-between, in a gray area where many Bush administration officials refused to enter intellectually. Reality is usually much more nuanced.

In essence, since he was not yet able to crack down on the porous Syrian border or those elements linked with the regime behind the exchanges and associations with Iraqi insurgents, he would have to mold the existing situation in a way that might provide him with some leverage vis-à-vis the Bush administration, especially as the latter, in a presidential election year, was desperately searching for ways to stem the insurgency in Iraq and reduce American casualties. In return for more cooperation in Iraq, maybe the United States would again acquiesce in Syria's presence in Lebanon and intercede to re-start negotiations with the Israelis. If this is in fact what Bashar was doing, it was a dangerous game to play, and it did not work, particularly with a U.S. administration that was less than amiably disposed toward him and his regime and more at the ready to utilize military force to achieve political aims. Maybe Bashar was not the naive, untested, and inexperienced young president some in the United States were making him out to be; maybe he was, as his father was wont to do, utilizing all of his assets in a critical situation to survive. Not that every step of the way was carefully choreographed—far from it. But the regime seemed to take steps to assuage Washington just enough to ward off (or delay) U.S. concerns while maintaining some flexibility—leverage—in terms of taking a active-passive approach toward border control. One official criticized Damascus for trying to inflict "managed chaos" in Iraq. Even by late 2004 it was reported that the Syrians were reconstructing a nine-foot high sand berm topped with barbed wire that was first built more than thirty years ago but had eroded considerably. In addition, a double troop line was established of soldiers and intelligence officers, and sentry posts were positioned about every 1.5 miles in certain areas.[4] On the other hand, Western diplomats

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[3] *The Washington Times*, "U.S. sees Syria facilitating insurgents," April 20, 2004.
[4] *The New York Times*, "At Tense Syria-Iraq Border, American Forces are Battling Insurgents Every Day," by Neil MacFarquhar, October 26, 2004.

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commented on the "sad sack nature" of many of the sentry posts manned by a few very bribable soldiers without even binoculars much less updated radios or night vision equipment.[5]

There is little doubt the Syrians were trying to complicate things for the United States in Iraq. It must be said, nonetheless, that even if Syria was the most compliant, helpful country on the planet for the United States, the situation in Iraq would not have been appreciably different.[6] In other words, Syrian influence on the situation in Iraq has been marginal, but from the point of view of Damascus, that slim margin might have been the difference between regime survival and joining Saddam and his cohorts in the ash-heap of history. But it was in Syria's interest to have a stable Iraq next door once the U.S. threat receded. It was also in their interests to position itself as a friendly neighbor, the better to establish (or re-establish) the economic and business links it had begun to construct in the late 1990s as well as to form a working relationship at the political level.[7] Damascus still wanted the United States presence in Iraq to be minimized, but it also did not want Iraq to break up into its constituent parts. Syria has its own ethnic and religious cleavages, and having one state—Lebanon—violently break down into its own constituent parts for almost a generation was proof positive it did not want to see the same thing happen on its eastern border. In addition, the break-up of Iraq could potentially arouse minorities in Syria to agitate for outright independence, a possibility brought home by the Kurdish nationalist riots in eastern Syria in March 2004, certainly motivated by the enhanced autonomy of the Kurds in Iraq. Interestingly, the government-controlled Syrian media even denounced Western plans floating around calling for a confederated Iraq as designs to undermine Arab unity—it should remain whole with a viable central government.

Emblematic of this, Bashar repeatedly declared his commitment to a sovereign and stable Iraq. The culmination of this rapprochement between Syria and Iraq occurred on July 26, 2004 when Iraq's interim Prime Minister Iyad Allawi paid a visit to Damascus and met with Bashar. There he secured promises of cooperation on security issues as well as ways to improve economic contacts. Allawi stated that, "it is clear that our visit here is the beginning of a bright chapter in relations between our two brotherly peoples. We are opening a new page with Syria."[8] Syrian and Iraqi officials after the visit announced that diplomatic relations, broken in 1980 with Syria's backing of Iran in the Iran-Iraq war, would soon be restored. Asad and Allawi agreed to form a committee to improve security along their common border, and the Iraqi prime minister stated that, "he provided valuable information to our Syrian brothers about militants misusing the Syrian hospitality to bring chaos to Iraq."[9] An agreement was also reached in principle regarding the estimated $500 million to $1 billion of frozen Iraqi assets in Syrian banks since the fall of Saddam—Syria stated it would return the money to Iraq when there is a legitimate Iraqi government. And he indicated a more assertive willingness to cooperate with the Bush administration on the issue that was important only a few months ahead of the election: sealing off the Syrian-Iraqi border.

In September, Assistant Secretary of State for Near East Affairs, William Burns, met with Bashar in Damascus to seriously discuss the border situation and the means with which to improve it. Deputy Secretary of State Richard Armitage soon followed the path to Damascus. Both were pleased with the talks and indicated progress had been made. State Department spokesman Richard Boucher stated that, "the Syrians did agree to take specific actions in coordination with Iraqi and multinational forces. These steps are

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[5] Ibid.

[6] A *New York Times* article, commenting on the Syrian-Iraqi border situation, stated that, "Western diplomats characterize insurgents who pass through here as a contributing but not essential factor to the resistance in Iraq. They also dismiss accusations about serious weaponry flowing across or Iraq's deposed Baathist leadership huddling here." The article quotes a senior Western diplomat as saying, "I don't see the insurgency being masterminded from Syria." Ibid.

[7] Between 2003 and 2007, Iraqi-Syrian trade, even during the war in Iraq, amounted to approximately $100-200 million, and in 2007 the two countries managed to do more than $800 million in trade, which surpassed pre-war levels. Steve Simon, "Won't You Be My Neighbor: Syria, Iraq and the Changing Strategic Context in the Middle East," *United States Institute of Peace Working Paper*, United States Institute of Peace, Washington, DC, March 2009.

[8] *The Financial Times*, July 27, 2004.

[9] Ibid.

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designed to close Syria's border to individuals seeking to foment violence and destabilize Iraq. It is essential now that these steps be translated into action on the ground, and we will measure the Syrian commitment to the stability of Iraq by the concrete steps that it takes."[10] Bashar had told Burns in their meeting that Damascus attached "great importance" to helping the Iraqi people restore their stability and preserve their national unity.[11]

As mentioned previously, Colin Powell subsequently met with then Syrian Foreign Minister Farouk al-Shar`a at the UN General Assembly meeting later in the month, whereupon he stated that he sensed "a new attitude from the Syrians."[12] Reportedly as well, President Bashar sent a short personal note hand-delivered to President Bush at this time, conveying positive words regarding further cooperation between the two countries. From most accounts following this series of meetings and discussions in September, Syria did, indeed, try harder to seal the border and cooperate with American forces.[13] Damascus repeatedly challenged the Bush administration to produce evidence of Syrian complicity in allowing foreign fighters into Iraq, but it received none officially. Bashar informed a U.S. delegation that met with him in May 2004 that, "We have asked the Americans to give us one name, one passport. So far, we haven't received anything. We are waiting for evidence."[14]

On Syria's cooperation with the United States on the border issues since September 2004, Syria ambassador to the United States, Dr. Imad Moustapha, stated that"

"Sometimes we do things we are not very happy about, but we need to do them because we need to be wise. And we need to keep channels open with this administration. They keep sending us messages on how important it is for Syria to cooperate with the new Iraqi government, and we do this not because the administration asked us to do this, but because our strategy is if Allawi claims it is a sovereign government, we say, "why not?" We will help them become a sovereign government. We do not believe he has a sovereign government, but we do not say this. What we say is that we believe you and we will help you become more and more sovereign, and this is our political objective today in Syria. And this is what the Americans want, so in a way this has made the bitterness to our opposition to the occupation of Iraq recede somewhat."[15]

This cooperative attitude extended to Syria's participation in an international conference in Sharm al-Shaykh, Egypt, on November 22-23, 2004, to discuss a number of issues related to Iraq's future. The meeting brought together the foreign ministers of Iraq's neighbors, the Group of Eight industrialized countries, China, the European Union, the United Nations, and the Arab League. It represented the first real attempt to coordinate international policy on Iraq since the overthrow of Saddam Hussein. Iraq's foreign minister, Hoshyar Zebari, believed the meeting was designed to reassure Iran and Syria that U.S. forces in Iraq had "no hidden agenda to attack neighbors," indicating that "cooperation on Iraq may not be sustainable without a broader and friendlier dialogue between these two governments and Washington."[16] The fact that Syria and Iran were included, with Colin Powell meeting both with the Syrian and (informally) the Iranian foreign ministers was a very positive sign for Damascus. It indicated that Washington needed assistance vis-à-vis Iraq.

There were again reports, however, in December 2004 from U.S. military intelligence officials that the Iraqi insurgency was being directed to a greater degree from Syria than previously recognized. Former loyalists of Saddam Hussein were reported to have found sanctuary in Syria and channeling money raised in Europe and

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[10] www.haaretz.com. September 30, 2004.

[11] Ibid.

[12] Ibid.

[13] For example, while not a ringing endorsement, Lt. General Lance Smith, deputy commander of the U.S. Central Command, stated that Syria was now providing more cooperation than in the past. *The Financial Times*, November 19, 2004.

[14] *Baltimore Sun*, May 14, 2004.

[15] Ibid.

[16] *The Financial Times*, November 24, 2004.

in the Middle East and other support to the insurgents.[17] General George Casey, the U.S. commander in Iraq, accused Damascus of harboring senior Ba`th party officials who were "operating out of Syria with impunity and providing direction and financing for the insurgency. That needs to stop."[18] In early January 2005 the Bush administration reportedly was considering imposing new sanctions on Syria to prod it to crack down on elements providing financial and logistical support for Iraq insurgents.[19] U.S. officials, including a "stern warning" from Deputy Secretary of State Richard Armitage in an early January visit to Damascus, reasserted the claim that the Syrian government was not doing enough against a network of Iraqis that include several close relatives of Saddam Hussein as well as his former number two man, Izzat Ibrahim, who officials purport has frequently traveled back and forth between Syria and Iraq.[20]

While not accusing the Syrian government of directly aiding Iraqi insurgents and acknowledging that the anti-American insurgency would "continue to thrive" without assistance from Syria, U.S. officials were pondering the application of sanctions beyond that which has already been implemented by the Syrian Accountability Act, particularly in the financial arena under the purview of the Department of Treasury aimed at alleged money-laundering activities by the Commercial Bank of Syria regarding illegal Iraqi funds diverted from the UN oil-for-food program.[21] Iraqi President Ghazi al-Yawar and Jordan's King Abdullah both expressed concerns about Syria's role in interviews to the *Washington Post*, Yawar commenting that, "there are people in Syria who are bad guys, who are fugitives of the law and who are Saddam remnants who are tying to bring the vicious dictatorship of Saddam back….They are not minding their business or living a private life. They are…disturbing or undermining our political process."[22] Only a month and a half ahead of the important elections in Iraq on January 30, 2005, to select a constituent assembly tasked to write a new Iraqi constitution, it seemed that Washington again was applying pressure on Damascus to do its utmost to dampen an insurgency that threatened the legitimacy of the election process. One must remember, however, that while "Iraqi Baathists in Syria" has become a provocative phrase, many if not most of these Iraqi Baathists opposed the regime of Saddam Hussein—that is the main reason they are in Syria in the first place, i.e. they had fled or were exiled from Iraq and were, indeed, more often than not working with Syrian intelligence to undermine Saddam (which is also why, as Bashar indicated, albeit ex post facto, Syria could have provided a great deal of accurate information to U.S. sources prior to the Iraq war). Having said this, even though many of these Iraqi Baathists are anti-Saddam, almost all of them sympathize with and have supported the Iraqi insurgency out of kinship and nationalistic feeling. They have done so more on an individual and ad hoc basis as many have acknowledged that the regime in Damascus clamped down on efforts inside of Syria to recruit Iraqi insurgents and discouraged public demonstrations of sympathy for those fighting against U.S. forces in Iraq, although some suggest it was done more with an eye toward controlling the flow rather than actually stopping it.[23]

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[17] www.msnbc.msn.com/1d/6674025/print/1/displaymode/1098/, December 8, 2004.

[18] *The Financial Times*, December 18, 2004

[19] *New York Times*, January 5, 2005.

[20] In a television interview in Egypt following his visit with Bashar, Armitage, in my opinion reinforcing the lack of hard U.S. evidence, stated the following:

Mr. Elsetouchi (interviewer): But what the Syrians are saying is that you don't have enough evidence or you don't provide them with accurate information. So what's your response?

Armitage: We had that discussion. In some cases, they're right. In some cases, we don't have exact locations. But our view is that they know these people, they've known them from the previous regime, and with a good effort, they can find them. And we're counting on Syria to help bring these fellow to justice and to stop their activities.

Elsetouchi: Is what you're saying now is that they know where they are and they know them, but they allow them to operate from Syria?

Armitage: Yes. I don't know that they know where each and every one are, but in general, they know where the foreign regime elements are, and they have to crack down on them. We're expecting them to do this and we're counting on them to do this, and we'll see if they do. (Quoted in www.syriacomment.com, January 12, 2005).

[21] Ibid.

[22] www.msnbc.msn.com/1d/6674025/print/1/displaymode/1098/, December 8, 2004

[23] *The Financial Times*, December 18, 2004.

In response to U.S. accusations, Farouk al-Shar`a stated that, "Syria is interested in Iraq's future and security because it is part of Syria's security and what some media is saying of misinformation is fiction and baseless."[24] He later stated in an interview with CNN on January 24th that if anti-American insurgents "cross any bordering state to Iraq, it is against the will of the government of Syria…we are not friendly even with them because this is not the right way to help the Iraqis."[25]

Feeling the Heat

The failure of the Bush doctrine in Iraq certainly took some of the pressure off of Bashar just as pressure in Lebanon was ratcheting up. While the Bush administration and anti-regime Syrian exile groups overplayed their hand vis-à-vis Damascus by late 2005 following a seemingly damning preliminary UN report against Syrian regime figures close to the Syrian president regarding the Hariri murder, Bashar used the crisis atmosphere to finally consolidate power. As Syrian expert Joshua Landis stated at the time, Bashar may have lost Beirut, but he gained Damascus. In other words, he used the internal fallout of "losing" Lebanon to push aside domestic foes and albatrosses, most particularly he forced the resignation (and exile) of Vice President Abd al-Halim Khaddam at a Ba`th party congress meeting in June 2005. Even though Khaddam gave some damning interviews in exile, the fact that he was outside of Syria doing this was evidence that Bashar had consolidated his position. In addition, with the intense anti-American feeling in the region, the more the Syrian exiled opposition appeared to attach itself to the United States, the more it became discredited in Syria, and the more Bashar seemed to stand up to Washington, the more popular he would become—and not only inside Syria, but also in the Arab world in general. Bashar continued his maneuvering with a re-shuffling of his cabinet in early 2006 and implanting loyalists in the military-security apparatus. He survived, and he was in control.

It was not easy, though. The year 2005 was a particularly tough one following the Hariri assassination. Maybe one of the ways Damascus could get Washington off its back was with more cooperation regarding Iraq. Syrian assistance regarding foreign fighters could, perhaps, be of continuing value. At the end of February 2005, Syria captured and handed over to Iraqi authorities Saddam Hussein's half-brother, Sabawi Ibrahim al-Hassan al-Tikriti, as well as twenty-nine other fugitive members of Saddam's regime. Sabawi reportedly was one of the leading organizers and financiers in Syria of the insurgency in Iraq, and he was number thirty-six on the list of the fifty-five most-wanted Iraqis compiled by U.S. authorities.[26] Since the Syrians took more time in nabbing Sabawi that Washington thought was warranted, even though Damascus believed U.S. intelligence was faulty, the gesture did not ingratiate the regime with the Bush administration. As the international heat was turned up on Syria with the fallout from the Hariri murder, any concessions regarding Iraq were ignored. On the contrary, it was reported that there were several clashes during 2005 between U.S. and Syrian soldiers across the border, including a prolonged firefight during the summer that ended in the deaths of several Syrians.[27] There were also reports that U.S. special forces units had been carrying out missions into Syria. With the aftermath of the Hariri assassination, the U.S. was certainly turning up the heat on Damascus. In addition, political flashpoints in Iraq—and in the fall of 2005 it was an important constitutional referendum—seemed to dictate heightened American pressure on Syria along the border in order to lessen the chances of insurgent activities disrupting political development, a theme that would repeat itself in coming years. In October 2005, President Bush called Syria as one of the "allies of

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[24] Quoted from a report filed by Joshua Landis in Damascus, www.syriacomment.com, January 12, 2005.

[25] *Haaretz*, www.haaretz.com, January 24, 2005.

[26] For more on the Sabawi episode, see David W. Lesch, *The New Lion of Damascus: Bashar al-Asad and Modern Syria* (New Haven: Yale University Press, 2005), pp. 193-195.

[27] *The New York Times*, "Border Clashes as U.S. Pressures Syria Over Iraq," by James Risen and David E. Sanger, October 15, 2005.

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convenience" with Islamic extremists. [28]   In a way, even though important elements in the Bush administration favored an overthrow of the Asad regime or at least sufficient pressure to induce a change of behavior, others feared that too much pressure might lead to Asad's fall from power, resulting in something much worse in terms of creating more chaos in the region and/or the possibility of an Islamist regime coming to power in Syria.

From the point of view of Damascus, then, maybe it would be better to hold the Iraqi card close to the vest just in case things took a turn for the worse by late 2005. They didn't, but it was clear to Damascus that at least having *some* ability to control the flow of insurgents into Iraq was of considerable value to the Americans. But how much of this was politicized by the Bush administration in an attempt to rationalize the deteriorating situation in Iraq? A number of studies in late 2005 and into 2006 concluded that foreign fighters represented well below ten percent of all insurgents in Iraq. Military officials were regularly quoted as saying that 95% of the insurgents in Iraq were home-grown. One former intelligence official said that he thought that senior commanders were "obsessed with the foreign fighters because that's an easier issue to deal with….It's easier to blame foreign fighters instead of developing new counterinsurgency strategies."[29] General John P. Abizaid, the head of CENTCOM, stated on October 2, 2005, in a television interview on "Meet the Press" that he recognized the need to avoid, "hyping the foreign fighter problem." On the other hand, Abizaid and others quickly pointed out that even though the foreign fighter contingent is relatively small, they provide most of the suicide bombers since they are more likely affiliated or sympathize with al-Qaida, and therefore the damage they inflict has been disproportionately high compared to their numbers. It is clear that there was confusion and disagreement in Western circles on the extent of the foreign fighter influence in Iraq at the time and what role Syria was playing in this; there was even more disagreement on how to deal with Syria on this issue. Damascus did not help clarify matters much with its own ambiguous position on the issue, which is probably how Syria wanted it, i.e. it was hedging its bets.

Convergence of Interests

While things were looking up for Bashar into 2006, the situation in Iraq appeared to be rapidly deteriorating, highlighted by the bombing in February of the al-Askariyya mosque in Samarra, a venerated Shiite shrine. The sectarian warfare between Sunni and Shiite, which had been simmering and episodic prior to this point, seemed to let lose with intense fury after the bombing, suspected to have been perpetrated by al-Qaida in Iraq. All of a sudden, the prospect of unbridled chaos in Iraq allowed the United States and Syria to develop converging interests: neither of them wanted chaos. For the Syrians, sectarian warfare and the breaking apart of Iraq could spill over into their country with equally devastating consequences, if not spark an unwanted regional conflagration. On this prospect and reflecting upon recent events, President Bashar commented in a Saudi newspaper in 2007 that:

"We say that the biggest threat in the region right now is the sectarian one. This is why we in Syria have started to act independently with our Iraqi brethren. We hosted many delegations from tribes and different religions. We had them conduct direct dialogues and meet with each other. We didn't witness at the popular level what we are witnessing at the political level, which means that until now the sectarian dispute is limited to the political arena….Arab states must deal with Iraq not on a sectarian basis but as a whole. Without its Arab identity…Iraq will be divided…and this will have direct repercussions on us, on you and on other states."[30]

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[28] Ibid. Some officials were likening Syria to Cambodia in the Vietnam war as a sanctuary for fighters, money, and supplies ending up in Iraq. The implication in this comparison was whether or not to bomb Syria as the United States had bombed supposed sanctuaries in Cambodia.

[29] Ibid.

[30] As quoted in "Engaging Syria? U.S. Constraints and Opportunities," *International Crisis Group*, February 11, 2009.

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Syria began to both reject and accept the U.S. occupation of Iraq (mostly by focusing on a clear withdrawal timetable for U.S. troops from Iraq) and began to work more earnestly with the recognized Iraqi government, one of the main issues of which revolved around Syrian help in controlling the flow of insurgents into Iraq that contributed to destabilizing the situation. As such, Syrian-Iraqi diplomatic relations were restored in November 2006 following a visit to Baghdad by Syrian Foreign Minister Walid al-Mouallem, and the two countries signed a security cooperation agreement in December 2006 as well as some trade accords.

It was now certainly in Syria's interest to do what it could, even if its influence was marginal, to help stabilize the situation in Iraq. From the point of view of Damascus, a strong authoritarian government in Baghdad that maintained the country's Arab character and was favorably disposed to Syria would be the ideal outcome, coupled with a near-term U.S. troop withdrawal. This might also minimize Iranian influence, which had been and will continue to be predominant because of Iraqi Shiite control of the government; however, Syria and Iran, despite their close strategic relationship, have not and do not see eye to eye on a variety of issues, one of which is the nature of the Iraqi government. As such, Damascus has played host to a variety of Iraqi factions, Sunni, Shiite and Kurdish alike, seeking to maximize the limited political influence it has in Iraq as well as potential lucrative business and economic benefits as Iraq rebuilds.

In addition, stability in Iraq would help Syria with its Iraqi refugee problem. Estimates range from 500,000 to 1.4 million depending upon the source, but it is clear that Syria's largely altruistic stance of opening its doors to Iraqis escaping the tumult of sectarian warfare has placed a tremendous strain on an already brittle Syrian economy. Most of the Iraqi refugees live in and around Damascus, forcing up prices in rents, reducing availability of housing for ordinary Syrians, overcrowding schools, and generally contributing to inflationary trends in the country. Crime has also spiked upward as refugee disposable income has evaporated and job opportunities remain scarce. Support from international organizations for refugees in Syria is slow and inadequate, so the Syrian government has been stuck with the lion's share of the bill. Improving conditions in Iraq would decrease the flow of refugees and might even reverse the flow as Iraqis feel it is safe enough to return home.

During the course of 2007 and 2008, as a result, the United States and Syria seemed to dance around the issue of foreign fighters in Iraq, sometimes Damascus receiving praise for its efforts and at other times still being urged by U.S. officials to do more—or in the passive tense, that it was not doing enough. On the one hand a National Intelligence Estimate on Iraq released in February 2007 concluded that external actors (including Syria) would not likely be a "major driver of violence," and that most of the violence appeared to be driven by internal factors.[31] On the other hand, in an April 26th briefing, General David Petraeus, who became Commander of the Multinational Forces in Iraq in January 2007, stated that "80 to 90 percent of the suicide attacks are carried out by foreigners" brought into Iraq by a "network that typically brings them in through Syria." He stated that the Syrians had to do more to "crackdown" on the trafficking of insurgents into Iraq, although he stopped short of saying that Damascus was supporting the militants.[32] Petraeus had actually been advocating within the Bush administration a policy of engagement with Syria as a way to help seal the border, and he offered to travel to Damascus to facilitate military and intelligence cooperation, but apparently his plan was vetoed by the White House at the time.

There appeared to be some low-level U.S.-Syrian military and/or intelligence cooperation between according to American military intelligence officers in 2008, with Syrian sources passing information to U.S. forces to target insurgents inside Iraq. In addition, Syria stepped up its arrests of foreign fighter jihadists inside the country. One U.S. military official stationed in northern Iraq along the Syrian border stated that, "We don't really deal directly with the Syrians, but I will tell you that they have been relatively good in the near recent

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[31] "Syria's Relations with Iraq," *USIPeace Briefing*, United States Institute of Peace, April 2007.
[32] ABC News: The Blotter, "Iraqi Official Says Syria Supporting Insurgents," May 11, 2007, http://blogs.abcnews.com/theblotter/2007/05/iraqi_official_.html.

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past, arresting people on their side of the border."[33] A number of U.S. officials in Iraq were stating at the time that the number of foreign fighters crossing into the country from Syria had gone down from about ninety per month to about twenty per month (down from an estimated high of 120 per month at the peak of the violence in 2007). This reduction in the flow of foreign fighters also had to do with the relative success of the military "surge" of U.S. military forces in Iraq initiated by Petraeus in early 2007 and maybe even more importantly with U.S. efforts at winning over Sunni tribal confederations to the U.S. cause after they had become alienated by the extremist tactics and beliefs of al-Qaida elements in Iraq over the years.

It seemed as if U.S.-Syrian interests and cooperative efforts were finally aligned with regard to Iraq. This paralleled Bashar al-Asad's accelerating emergence out of U.S.-led isolation, highlighted by his attendance at a Euro-Mediterranean summit meeting hosted by French President Nicholas Sarkozy in July 2008. This was a major breakthrough for the Syrian president, coming on the heels of French gratitude for Syria's positive role in constructing the Doha agreement in May 2008 that put to rest for the time being a crisis in Lebanon that threatened to spiral out of control. Bashar was playing the role he had repeatedly said he wanted to play, that of facilitator in a positive influence process, much as he had done in helping to temporarily reconcile Hamas with the Palestinian Authority in the early 2007 Meccan agreement.

This budding cooperative attitude came to a screeching halt on October 26, 2008, when American forces carried out a daring cross-border raid into Syria near the frontier town of Abu Kamal and killed a senior al-Qaida operative by the name of Abu Ghadiya, who apparently had been in charge of a Syrian facilitation network since 2005. Officially the Syrian government denied the claim and expressed outrage over what it viewed as an unwarranted attack. Syria announced the closure of the American School and American Cultural Center in Damascus, not exactly an earth-shattering response. Bashar knew, however, that he could do little in a tangible way to respond in kind. He was also smart to realize that polls were showing that Barrack Obama, who was much more favorably disposed toward engaging Syria diplomatically, was likely to win the U.S. presidential election. It was a sign that Bashar's vision of Syrian foreign policy had imposed itself on the Syrian foreign policymaking apparatus that he chose not to respond in a way that might reverse momentum toward a U.S.-Syrian rapprochement when Obama came to power in January 2009. More importantly in the immediate term, though, Syria decided it was cutting back on cooperation with the United States regarding the foreign fighters following the Abu Kamal raid. [34] Such was the apparent incomprehensibility of the timing of the U.S. attack that in some circles it was determined that the raid was secretly ordered by elements within the Bush administration who wanted to derail growing cooperation between the United States and Syria as well as the ongoing indirect Israeli-Syrian negotiations that had been brokered by Turkey since early 2008. It could just be that military commanders on the ground had reliable intelligence that a major insurgent leader could be eliminated and that the benefits outweighed the potential costs at the time.

In any event, U.S.-Syrian cooperation regarding Iraq once again had to be built up slowly but surely in 2009, even with the Obama administration in power. It was still a potent issue for the United States, especially as it had been announced by Obama that U.S. forces would redeploy away from Iraqi cities by the end of June. Syrian cooperation was seen as imperative so that jihadists could not take advantage of the scheduled redeployment. Sure enough, suicide bombings in Iraq, which had been steadily declining over the previous year, experienced an uptick in May and June 2009. The announcement by the Obama administration on June

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[33] *The National*, "Syria stops insurgents on the Iraq border," by Phil Sands, November 2, 2008, www.thenational.ac/article/20081102/FOREIGN/253206390/1002.

[34] It must also be noted that this combined with deteriorating security conditions on the Iraqi side of the border after a heightened display of security around the Iraqi elections in early 2009. This became especially important as U.S. troops began their redeployment from Iraqi cities in June 2009. One report in May 2009 noted that, "Iraqi border interdiction efforts have been hindered by a chronic shortage of fuel, which keeps border police grounded for weeks at a time, and by corruption within their ranks, U.S. military officials in Iraq said," and a senior U.S. military official stated that "Iraqi vigilance in general has decreased since the elections," and that al-Qaida in Iraq has "been able to rebuild the network." "Terrorist Traffic Via Syria Again Inching Up," by Karen DeYoung, *The Washington Post*, May 11, 2009.

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23 that it had decided to return the U.S. ambassador to Syria after an over four year absence can be seen in direct relation to the foreign fighter situation in Iraq. On the one hand the announcement can be viewed as a kind of reward to Syria for its relative non-interference in the Lebanese parliamentary elections in May, akin to France's "reward" to Bashar for his role in the Doha agreement. On the other hand, it could very well be an inducement to Syria to significantly step up its efforts to stem the flow of foreign fighters to Iraq at such a crucial moment for the U.S. military and political position there. The Syrians were plenty angry in May when the Obama administration announced the renewal of sanctions against Syria under the Syrian Accountability Act. This was mostly perfunctory, and Syrian officials knew it was coming; however, what really upset them was that two U.S. officials visited Damascus at about the same time the sanctions were renewed, ostensibly to explain the rationale of the Obama administration in a way that would not reverse a growing U.S.-Syria diplomatic dialogue. The Syrians were incensed that the two U.S. officials (Assistant Secretary of State Jeffrey Feltman and NSC official Daniel Shapiro, both of whom visited with Bashar in February) also at the same time pressed for more Syrian help against foreign fighters. To the Syrians, how could they ask for more when at the same they were renewing sanctions? Damascus would be giving up something for nothing, especially following their outrage at the October 2008 U.S. raid. The price was the return of the U.S. ambassador, and they got it. However, this is also a test of Syrian intent and abilities, and the Obama administration will be carefully measuring Syrian actions.

Conclusion

In a telling exchange I had with Bashar in Damascus in July 2006 during the Hizbullah-Israeli war, I asked the Syrian president what he thought about President Bush's expletive that was inadvertently caught on tape at the G-8 summit meeting earlier in the month. In a conversation with British Prime Minister Tony Blair about the conflict in Lebanon, Bush said, "Yo Blair, you see, the…thing is what they need to do is get Syria to get Hizbullah to stop doing this s**t and it's over." Despite the U.S. president's misreading of the influence that Syria did *not* actually have over Hizbullah, Bashar's reaction was unexpected and interesting. He said, "I love it. I love that he [Bush] said that. It makes me feel great, because at least he is thinking about Syria. He is thinking about us."[35] Syria was not behind Hizbullah's actions, and Damascus was lucky the Israelis knew that and decided not to take out their wrath against Syria as well. But at least the perception that Syria could wield some damage gave it some utility, some leverage, some more arrows in what had been a near empty quiver.

Certainly at first, Syrian decision-making regarding foreign fighters was done in an almost convulsive fashion in terms of the immediate need of survival in the face of the U.S. invasion of Iraq and the perceived real threat that Damascus could be next on the hit list targeted for regime removal. Even after the U.S. threat receded as American forces became ensconced in the quagmire of fighting an insurgency, Syria recognized that its help in stemming the flow of insurgents into Iraq was very important to the Bush administration. Typically, the Syrian regime saw this as much-needed leverage when it had very little else at hand, i.e. its help would have a price, a quid pro quo, under the right circumstances. It could also be useful in removing some of the heat that was piling up on Damascus as various times, especially following the Hariri assassination in 2005.

On the other hand, convulsive decisions can often have long-term negative repercussions. The possibility of insurgent/jihadist blowback from Iraq into Syria and elsewhere across the Middle East is very real, and it could be similar to what happened following the Afghan/mujahideen resistance to the Soviet invasion and occupation of Afghanistan in the 1980s, al-Qaida being the most prominent of the "negative" repercussions. It is difficult to stuff the genie back in the bottle once it has been unleashed. Maybe Bashar had very little choice. The Syrian public, especially a latent salafist minority that had become quite vocal in the aftermath of the invasion, strongly opposed the U.S. presence and supported the insurgency. The Syrian leader could not

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[35] For more on President Bashar's stance on such issues, see David W. Lesch, "The Evolution of Bashar al-Asad," unpublished paper delivered at Tel Aviv University, June 10, 2009.

be seen to be helping an increasingly unpopular United States, particularly when he had not yet fully secured his power position in Damascus and needed national support in a tense and threatening environment. A Ba`thist regime that at one time was the epitome of Arab secularism and socialism, led by an Alawite minority that most Muslims do not even consider to be Muslim and are diametrically opposed by Sunni salafist groups, would have been denigrated and possibly targeted more than it already has been by jihadist groups if it actively cracked down on foreign fighters. For instance, the Syrians also increased security along the Lebanese border in response to the rise in activity of salafist groups, particularly in northern Lebanon, highlighted by the al-Qaida affiliated Fatah al-Islam uprising in the Nahr al-Bared Palestinian refugee camp near Tripoli in 2007. After a car-bombing in Damascus in September 2008 that killed seventeen people, one Lebanese intelligence officer was quoted as saying that, "after closing the borders, the Syrians got a message from the Salafists: you leave us alone or we target you."[36] Even as early at 2005 a Syrian jihadist website called Minbar Suriyya al-Islami called the Syrian regime, "one of the most tyrannical regimes against anything connected with Islam," and warned that "Syria is not the safest route to Iraq," as local Sunni imams are under "intense surveillance and forced to cooperate with security forces."[37] Indeed, it has often been said, not without some credence, that Syrian security forces funneled foreign fighters into Iraq in order to better track them and their militant networks, especially if they returned, but also to be rid of them, hopefully to be killed by U.S.-led forces in Iraq. And making money by Syrians involved in the foreign fighter transit networks in the country was as or more powerful an incentive than ideology, something that Islamic militant purists in and outside of Syria were quite wary of all along.

It is also important to remember that the Sinjar records indicate that the vast majority of foreign fighters are probably from Saudi Arabia and many more than originally estimated have come from North Africa (Libya, Tunisia, Algeria, and Morocco). In fact, per capita, Libyans made up the largest portion of the Sinjar sampling. The Sinjar records also showed that most of these foreign fighters from North Africa traveled through Egypt before entering Syria.[38] Even though Syria's border status with Iraq makes it of primary operational concern to U.S. forces, it is interesting to note that at least in the media there has been very little airing of any U.S. concern about Egyptian, Moroccan, Tunisian, Libyan, or Saudi efforts (or lack thereof) to crack down on foreign fighters. Perhaps the United States has relayed it concerns to its friends in the Arab world quietly, but certainly in the public sphere Syria is held out as the main culprit with regard to foreign fighters entering Iraq. I suspect that countries such as Saudi Arabia, Libya, and Egypt want to get rid of these foreign fighters and have them pass through or out of their respective countries as much as Syria does. I imagine there are many castings of blind eyes toward the problem, not just Syria. Is there one standard for friends or potential friends and quite another for presumed enemies? This is especially important because in analyzing the results of the Sinjar records, Clinton Watts observed that U.S. efforts to stem the foreign fighter flow have for the most part focused on transit points, safe havens, and target locations. It may be that

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[36] "Jihadist blowback?" *Economist.com*, October 2, 2008, www.economist.com/world/mideast-africa/PrinterFriendly.cfm?story_id=12342146. It has not yet been determined who carried out the bombing, but a salafist group of local or outside (possibly Iraqi refugee) origin is obviously a suspect. Ayman al-Zawahiri, al-Qaida's number two man, stated following the Nahr al-Bared episode and subsequent killings in and around Tripoli that Lebanon had become "a Muslim front-line state." Ibid.

[37] Steve Simon, "Won't You Be My Neighbor: Syria, Iraq and the Changing Strategic Context in the Middle East," *United States Institute of Peace Working Paper*, United States Institute of Peace, Washington, DC, March 2009, pp. 30-31. There were also suspected Islamic militant attacks in Syria in April 2004 in the diplomatic quarter in Damascus, killing four, and against the U.S. embassy in Damascus in September 2006 that was foiled by Syrian security (believed to have been carried out by an al-Qaida offshoot by the name of *Jund al-Sham* (Army of Syria). Ibid., p. 32.

[38] The Sinjar records provide just a snapshot profile of the foreign fighters in 2007. Most of the those entering Iraq from Syria were, by far, Saudi (244 out of 595 records captured or 41%). Libya was next with 112 (18.8%), Syria third with 49 (8.2%), Yemen fourth with 48 (8.1%), Algeria fifth with 43 (7.2%), followed by Morocco with 36 (6.1%), and Jordan with eleven (1.9%). Per capita, however, Libya provided the most, Saudi Arabia second, Tunisia third, then Syria and so on and so forth. "Al-Qaida's Foreign Fighters in Iraq: A First Look at the Sinjar Records," Joseph Felter and Brian Fishman, Combating Terrorism Center, US Military Academy, West Point, New York, July 2008.

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considerably more (creative) effort needs to be made to stem the flow at the points of origin, tackling in full measure the supply side in addition to the demand side.[39]

Finally, even an ardent pro-U.S. leader at the helm in Damascus fully prepared to exert maximum effort to stem the tide of insurgents traveling through Syria to get to Iraq could not have hermetically sealed the border in the face of powerful smuggling mafias, cross-border tribal ties, and largely inept, ill-supplied and highly bribable security services (on *both* sides of the border).[40] The regime's inabilities in this regard may have just fit nicely into regime policy. Continuous U.S. demands upon Syria to do more may have in part been due to the impression Syria gave that it, in fact, *could* do more, not so much with the steps it took along the border itself but with episodic cooperation with U.S. military and intelligence that did produce dividends. This is now the central question surrounding Syria, i.e. how much can it really do? *Can* it rein in Hizbullah? *Can* it work to reconcile Fatah with Hamas? *Can* it play a facilitating role vis-a-vis Iran? And *can* it help to stabilize the situation in Iraq, first and foremost by doing more to prevent foreign fighters from entering Iraq through Syria?

The regime in Damascus would like everyone to think the answer to the first three questions is a resounding "yes." And there is evidence to suggest that Syria can, indeed, play an important, constructive regional role, but there are also those that believe Damascus is all smoke and mirrors in this regard, and therefore it has very little utility and is not worth the time spent negotiating on any issues, including the Golan. The problem over the past several years regarding the fourth question is that if the answer is a resounding "yes," Damascus could pay an immediate and destructive price because of the saliency and volatility of the issue in Washington. So the answer emanating from Damascus was always a soft "no" followed by the possibility that it could do more under more favorable circumstances, materially and/or diplomatically speaking. Now the circumstances are more favorable, and it got something in return. My feeling is that Syria can be helpful to U.S. efforts in Iraq, although its influence is certainly less than Iraq's more powerful neighbors. I suspect that U.S. forces and policymakers might become more perturbed than they already are with Syria when this cross border cooperation and intensified Syrian efforts inside their own country reduce the number of foreign fighters crossing over into Iraq. Lives could have been saved had this cooperation started sooner. But any residual anger at Syria must be equally aimed at the Bush administration, which boxed Syria in a corner from which it believed it had very little choice but to act in the way it did.

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[39] "Countering Terrorism from the Second Foreign Fighters Glut," by Clint Watts, *Small Wars Journal,* Small Wars Foundation, 2009.

[40] On the Iraqi-Syrian border situation, one U.S. military officer in Iraq commented that, "We just captured someone who was trying to escape into Syria and found out that he'd been arrested last November on the Syrian side after they caught him with a bunch of fake passports. But he bribed his way out and managed to get back in. But, gain, I don't know if I necessarily attribute that to the government as to an individual Syrian border patrol unit." He went on to add that, "The Iraqi border forces themselves are mainly locally recruited and from the Shammar tribe. The Shammar also control trade routes through the Western Jazeera and their people are on both sides of the border. The reason they can get across, aside from the Shammar helping them, is that the berm along the border is broken in many places, or worn down so you can back up two trucks and pass things back and forth." Another U.S. officer points out that, "It's local economics. The people crossing have been doing it for hundreds of years where someone just happened to draw a boundary after World War One. It's not challenging to get across, but our efforts don't need to focus on the entire border. You have a fake passport, it's not hard to get in. They're not crossing with truckloads of weapons, there's no need to." "Syria stops insurgents on the Iraq border," by Phil Sands, *The National*, November 2, 2008.

DISRUPTING THE FOREIGN FIGHTER FLOW

By Michael P. Noonan

Michael P. Noonan is the managing director of the Program on National Security at the Foreign Policy Research Institute and a veteran of Operation Iraqi Freedom. This essay draws upon the "Disrupting the Foreign Fighter Flow" panel discussion from the FPRI's "The Foreign Fighter Problem" conference held at the National Press Club in Washington, DC, on July 14-15, 2009. For a full conference summary see: Tally Helfont, "The Foreign Fighter Problem: A Conference Report," FPRI E-Note.

On the battlefields of Iraq and Afghanistan U.S. Soldiers, sailors, airmen, and Marines have confronted third-party national combatants. Widely known as "foreign fighters" these individuals have gained deadly skills, combat experience, and global connections that can be exported and exploited to devastating effect in other locations. Whether one believes that the extremism of Al Qaeda and affiliated movements is an existential threat to the United States or that such threats pose more of a nuisance to international security, the fact is that foreign fighters motivated by such causes do pose risks not only to U.S. service members deployed to combat zones, but also to geostrategically important governments in North Africa, the Middle East, and South and Southeast Asia, not to mention potential targets in the United States, Europe, and other locations. Therefore, disrupting the flow of foreign fighters is an important undertaking. But how does one do so?

THE FOREIGN FIGHTER PHENOMENON AT A GLANCE
The foreign fighter phenomenon has grown since the call to jihad against the Soviet invasion of Afghanistan in 1979. Following that conflict foreign fighters migrated to such places as the Balkans and Chechnya, Dagestan, and Tajikistan in the former Soviet Union. But this is not a new problem. Foreign fighter belligerents on both "sides of the hill" were a marked feature of the 1930's Spanish Civil War. Furthermore, the incidence of such fighters has been fairly widespread throughout history. As David Malet, a recognized expert on the phenomenon, has noted, "Among the 331 civil conflicts [occurring between] 1815 [and] 2005, at least 67 of them featured the presence of foreign fighters."[1]

Still, the emergence of Al Qaeda directly from the experience of 1980s Afghanistan, portends ominous possibilities from this latest cohort of global foreign fighters. According to Clint Watts, a former Army officer and FBI special agent with expertise on foreign fighters, "[l]eft unchecked, the Second Foreign Fighter Glut will produce the next generation of terrorist organizations and attacks much as the First Foreign Fighter Glut fueled [Al Qaeda]."[2] While they might not be as numerous as those that participated in the 1980s jihad, which was in many cases sanctioned by regional governments, "they have learned skills that far outweigh those of the original Jihadis. Their understanding and employment of urban tactics, weaponry and advanced technology make them far more lethal than their predecessors."[3] In Iraq, for instance, while such fighters have accounted for less than 5 percent of insurgents they were estimated at producing over 90 percent of high lethality attacks.[4]

But what—if anything—is new about this latest wave of foreign fighter activity? Malet suggests that, "[i]n modern history, transnational insurgencies have been based on various ties of ethno-nationalism and ideology, but contemporary foreign fighters in conflicts around the globe now all share the same religious identity."[5] This does not mean that Islam itself is the cause of this phenomenon, rather "the cause appears to be partly the result of a period effect, the coincidence of increasingly globalized communications and transportation technology with a particular identity community whose members

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[1] http://davidmalet.com/The_Foreign_Fighter_Project.php. See also his "Foreign Fighters: Transnational Identity in Civil Conflicts," Ph.D. dissertation, The George Washington University, 2009.
[2] Clint Watts, "Countering Terrorism from the Second Foreign Fighter Glut," *Small Wars Journal*, 2009. Accessible at: http://smallwarsjournal.com/blog/journal/docs-temp/247-watts.pdf.
[3] Ibid.
[4] Figures cited by David Malet during panel one of the FPRI "The Foreign Fighter Problem" conference. Available at: http://www.fpri.org/multimedia/20090714.foreignfighterphenomenon.html.
[5] David Malet, "Why Foreign Fighters? Historical Perspectives and Solutions," *Orbis* (Winter 2010): forthcoming.

have transnational identities that are currently particularly salient."[6] Perceived threats to such identity communities, thus, foster and propel defensive mobilization by motivated individuals. To Malet, such defensive mobilization is the key to recruitment across cases, ideologies, and religious networks.[7]

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Clint Watts asserts that the foreign fighter pipeline has three phases: (1) source country/flashpoint, (2) safe havens and the transit network, and (3) target locations.[8] Others suggest that a fourth phase, outflow destinations, is important as well.[9] Each of these phases is examined below. It is important to remember that at least since the original anti-Soviet jihad in Afghanistan there has been a large chicken-and-egg effect and overlap between and amongst these phases. The complexity of the issue, however, suggests that one cannot deal singly with any particular phase. A combined approach working within and across phases appears to be the only realistic way to minimize the problem in the short- to mid-term. Full eradication of the phenomenon seems unrealistic.

Source Country/Flashpoint. Foreign fighters like most other combatants must be recruited. While self-selection and varying degrees of intrinsic motivation are important, extrinsic factors also appear to be crucial. Watts argues that "social-familial-religious" networks fuel such recruitment with the assistance and influence of former foreign fighters.[10] Defensive mobilization recruitment themes similar to former President George W. Bush's statement to "fight them over there so we don't have to fight them here" are employed.[11] Autocatalytic recruitment from, say, the internet appears to be rare. Cities and neighborhood kinship and cultural nodes are important. For instance, according to the "Sinjar files"—the most complete personnel files on the foreign fighter inflow into Iraq captured near that northwestern Iraqi city—the top five foreign fighter producing cities for that cohort of individuals per capita were: Darnah, Libya; Mecca, Saudi Arabia; Jawf, Saudi Arabia; Dayr al zur, Syria; and Sanaa, Yemen, respectively.[12]

In the long run this phase is probably the most important one but suppressing the flashpoints is also fraught with difficulties. As the terrorism scholar Jarrett Brachman has noted,

> …over the last eight years al Qaeda has undergone a metamorphosis. It has transformed from a global terrorist group into a global terrorist movement, one with its own founding fathers, well-codified doctrine, substantial and accessible corpus of literature, and deep bench of young, bright, and ambitious commanders. Attacks still matter to them, but in an era of increased counter-terrorism pressure, al Qaeda is beginning to realize that it is a lot more effective at being a movement, an ideology, even a worldview. It is starting to see that terrorism is only one of many tools in its arsenal and that changing minds matters more than changing policies.[13]

Pivoting popular narratives away from Al Qaeda and other extremists, as the past decade-plus has shown, however, is difficult. As the late French counterinsurgency practitioner and theorist David Galula said, "[t]he insurgent, having no responsibility, is free to use every trick; if necessary, he can lie, cheat, exaggerate. He is not obliged to prove; he is judged by what he promises, not by what he does. Consequently, propaganda is a powerful weapon for him."[14] Within the U.S. government bureaucratic layers and seams inhibit the effective coordination to counter such narratives even before getting to work by, with, and through the numerous governments whose populations are subject to the messages of the global movement. And even when working with these governments, the embassy teams tend to focus more on bilateral relations rather than on stemming the outflow of extremist foreign fighters who operate sometimes thousands of miles away from their day-to-day realities.[15] It is important to increase the flow of counter-narratives to messages of Muslim oppression or victimization, but this is often difficult given the reasons stated above. Additionally, while host nation governments today do a much better job of tracking individuals who have left to become foreign fighters, those fighters who do not achieve martyrdom pose risks to their home countries and to others abroad.

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[6] Ibid.

[7] Ibid.

[8] Clint Watts, "Countering Terrorism from the Second Foreign Fighter Glut**,"** *Small Wars Journal*, 2009. Accessible at: http://smallwarsjournal.com/blog/journal/docs-temp/247-watts.pdf.

[9] See discussions from the "Disrupting the Foreign Fighter Flow" panel at: http://www.fpri.org/multimedia/20090715.disruptingforeignfighters.html.

[10] Watts, *Countering Terrorism from the Second Foreign Fighter Glut*.

[11] See, for instance, Clint Watts statements on "The Foreign Fighter Phenomenon – Overview" panel.

[12] Clinton Watts, "Beyond Iraq and Afghanistan: What Foreign Fighter Data Reveals About the Future of Terrorism," *Small Wars Journal*, 2008. Accessible at: http://smallwarsjournal.com/blog/journal/docs-temp/49-watts.pdf.

[13] Jarrett Brachman, "The Next Osama," *Foreign Policy.com*, September 10, 2009. Available at: http://www.foreignpolicy.com/articles/2009/09/10/the_next_osama.

[14] David Galula, foreword by John A. Nagl, *Counterinsurgency Warfare: Theory and Practice* (Westport, CT: Praeger Security International, 2006; 1964), p. 9.

[15] See comments by Michael Doran on the "Disrupting the Foreign Fighter Flow" panel.

Safe Havens and the Transit Network. Unless such fighters go to fight in a neighboring country, much depends on getting foreign fighters to training sites and to target destinations intact and undetected. (Unfortunately, thanks to the internet, training sanctuaries for some skills may not be as critical as they once were.) In addition, it is necessary to establish logistical hubs not only for the transit and training of fighters, but also locations to conduct a wide array of financial activities—ranging from the illicit (such as product piracy, smuggling, money laundering, etc.) to the more commonplace (access to banking, legitimate businesses, etc.)—which are necessary to fund current and future operations.

Prior to September 11, 2001 national governments (e.g., the Sudan and Afghanistan) were more willing to offer sanctuary to groups such as Al Qaeda, but the U.S. reaction to the attacks on New York and Washington, DC, in Afghanistan and other locations has diminished such flagrant support. Today, such groups seek out the freedom of action offered by geopolitical "dead spaces,"[16] like areas of the Sahel, Somalia, and Yemen.[17] Punitive strikes may be taken against targets using such dead space—see for example the alleged U.S. raid near Deir Ezzor, Syria in 2008, [18] the Israeli Air Force attack on a supply convoy in Sudan in spring 2009,[19] and the recent U.S. strike to kill Saleh ali Saleh Nabhan in Somalia[20]—but political sensitivities and the resources required to undertake these special missions can impose costs. In addition, some experts claim that international cooperation in the fight on terrorists is enhanced when the United States respects sovereignty.[21]

Such cooperation may be necessary in order to restrict the free movement of foreign fighters. For instance, law enforcement and intelligence organizations need to collaborate more in sharing information. They should also keep tabs on those with whom such individuals are interacting. In addition, such cooperation might assist in making it more expensive or more difficult for obvious foreign fighter candidates to travel to known transshipment points. But such cooperation will not always be possible. A local government, if one exists, may be unable or unwilling to cooperate. Under such circumstances, punitive or information gathering raids, as described earlier, may be undertaken or more creative approaches such as "false flag" operations to complicate the smuggling of fighters into and out of target areas. These operations might also demoralize and dissuade such fighters from following through with going to, or recruiting others to, fight.[22]

Target Locations. By the time foreign fighters arrive at target locations they are mainly the problem of the host nation security forces or are, like in Afghanistan and Iraq, also the problem of external armed forces. As stated earlier, such fighters, particularly in Iraq and Afghanistan, have deployed tactics, techniques, and procedures of great skill and oftentimes of greater lethality than those previously used on scene—e.g., the diffusion of innovative uses of person-borne, vehicle-borne, or static emplaced improvised explosive devices (IEDs). Furthermore, as the "McChrystal Assessment" on Afghanistan states, "[f]oreign fighters provide materiel, expertise, and ideological commitment."[23] Abu Musab al-Zarqawi, among others, showed what such materiel assistance, expertise, and ideological commitment could accomplish by bringing Iraq to the precipice of civil war in 2006 by employing a strategy pitting Sunni Arabs vs. Shi`i Arabs vs. Kurds.

Vast amounts of information and specialized capabilities are necessary to counteract such networks. You need human networks to go after foreign fighter and insurgent networks, but all insurgencies are *sui generis*. Population-centric counterinsurgency or foreign internal defense approaches may work in certain environments, but not in other locations where the physical or human terrain may favor other methods of force and resource employment. Foreign fighters themselves must also operate in these varied terrains. Not all environs will be hospitable. As the Anbar Awakening showed, such foreign fighters may operate more effectively when divorced from the local populace who, in any event, may tire of such visitors and their behavior.[24]

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[16] In American military parlance "dead space" is defined as: "An area within the maximum effective range of a weapon, radar, or observer which cannot be covered by fire or observation from a particular position because of intervening obstacles, the nature of the ground, the characteristics of the trajectory, or the limitations of the pointing capabilities of the weapon." Taken from: http://dictionary.babylon.com/Dead_Space/. Geopolitical dead space here refers to geographical areas where issues of sovereignty or the lack of concrete or discernable governance, in whole or part, create obstacles to control of the space and where the human and physical terrain or other issues (such as moral, legal, diplomatic, military, and so on) create difficulties for outside powers to intervene.

[17] For more on the "power of statelessness" see Jakub Grygiel, "The Power of Statelessness," *Policy Review* (April & May 2009), pp. 39-50.

[18] Borzou Daragahi, "8 reportedly killed in U.S. raid inside Syria," *Los Angeles Times*, October 27, 2008.

[19] Michael R. Gordon and Jeffrey Gettleman, "U.S. Officials Say Israel Struck in Sudan," *New York Times*, March 26, 2009.

[20] Jeffrey Gettleman and Eric Schmitt, "U.S. Kills Top Qaeda Militant in Southern Somalia," *New York Times*, September 14, 2009.

[21] See, for instance, the comments made by Barak Mendelsohn on the "Disrupting the Foreign Fighter Flow" panel and also his *Combating Jihadism: American Hegemony and Interstate Cooperation in the War on Terrorism* (Chicago: University of Chicago Press, 2009).

[22] See the "Disrupting the Foreign Fighter Flow" panel discussion.

[23] Available at: http://media.washingtonpost.com/wp-srv/politics/documents/Assessment_Redacted_092109.pdf?hpid=topnews%29. See page 2-5.

[24] See the comments by Erin M. Simpson on "The Foreign Fighter Phenomenon – Overview" panel and Barak Mendelsohn on the "Disrupting the Foreign Fighter Flow" panel.

Aside from those who stay on the battlefield or move to other destinations, some foreign fighters in the target locations will be killed—and many request to be suicide bombers[25]—while others are captured. Of those captured, some are returned to their source countries for imprisonment or for attempts at reintegration into society. Such reintegration seems to work in certain cases, but not in others. As of the spring of 2009, for instance, a Pentagon report found that there was roughly a 14 percent recidivism rate among those prisoners transferred from Guantanamo Bay, Cuba to other locations.[26] If—and it may be a big *if*—this other 86 percent of individuals holds across other samples and such individuals become solid citizens and do not incite others to go off and fight then that would be a great success. But as was stated earlier, former foreign fighters, even if not actively engaged in fighting themselves, appear to be important cogs in recruiting others to fight—either by word or by past example. Of course, those who had unpleasant experiences while off fighting might be useful in dissuading others from following their paths, too.

Outflow Destinations. Those foreign fighter veterans who are not killed or captured at target locations generally may either: (1) return to their source country, (2) go to a safe haven, or (3) go to a current or future conflict zone. Since the first foreign fighter glut of the 1980s and 1990s, this situation has spawned something akin to a deadly version of the "show that never ends."[27] Examining the so-called "Arab Afghans," who fought the Soviets in the 1980s, the terrorism scholar Mohammed Hafez suggests that that conflict produced six types of veterans: reintegrationists (those who went home again and reintegrated into their original societies), government assets (e.g., Arab Afghan Yemenis who fought against southern Yemenis during the civil war following Yemen's reunification), facilitators, social revolutionaries (e.g., Egyptians and Algerians who fought against their governments upon return from Afghanistan in the 1990s), global jihadists, and unaffiliated terrorists (e.g., Ramzi Yusef).[28] Some will continue due to their religious or ideological beliefs while others are attracted to the lifestyle—a powerful argument. As the military historian, and retired U.S. Army Lieutenant Colonel, Robert Mackey has stated about a different historical context, "the guerrilla fighters of Arkansas and Missouri during the [American] Civil War formed the cadres of the Old West criminal gangs—Cole Younger, Jesse James. They were people who did not fit back into their societies; they couldn't go home again."[29]

Whether individuals are motivated by religion, ideology, or lifestyle, the Islamist strategic studies scholar Barak Mendelsohn has offered a simple, yet important distinction between different groups of foreign fighters: those that are experienced and those that are not. According to Mendelsohn, the experienced cadres deserve more attention because of their leadership abilities, their technical, tactical, and strategic knowledge that they can transmit through training and advising, and their connections.[30] While the less experienced might be capable of causing large-scale carnage, particularly in spectacular suicide attacks, the experienced cadres are the planners and instigators.

To counter such individuals it is, therefore, important to plan for and deal with foreign fighter outflows, especially the cadres leaving from Iraq and Afghanistan. To Mackey the key to such planning is to consider what happens 5, 10, or 15 years from now and develop a series of "indications and warnings." In particular, the United States should: (1) stringently look at where money goes and where it moves ("funding, financing, travel and movement"), (2) focus on the law enforcement angle and on coalition partner capacity-building, (3) acknowledge that once fighters start leaving a country such as Iraq it is critical to know where they are going, and (4) focus on conflict abatement. [31] Wars allow foreign fighters the opportunity to fight, provide them with expertise and the repetition of practice, and serve as the training ground for the next fight. Lastly, as Mendelsohn has suggested, we need to identify the connections to local groups from source or future target countries where outflow may become a lot more relevant.[32]

Beyond these steps, Mackey suggests that we need to establish an international fusion center overseas that would aggregate intelligence and share it cross-nationally. This would allow us to track outflow and leverage comparative advantages in human intelligence capabilities. And while he noted that the Foreign Fighter Task Force is doing a great job, it is focused on

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[25] See, for instance, Joseph Felter and Brian Fishman, *Al-Qa`ida's Foreign Fighters in Iraq: A First Look at the Sinjar Records* (West Point, NY: Project Harmony, Combating Terrorism Center, December 2007), p. 19. Available at:
http://www.ctc.usma.edu/harmony/pdf/CTCForeignFighter.19.Dec07.pdf.

[26] Elizabeth Bumiller, "Later Terror Link Cited for 1 in 7 Freed Detainees," *New York Times*, May 20, 2009. Available at:
http://www.nytimes.com/2009/05/21/us/politics/21gitmo.html.

[27] The "show that never ends" are lyrics from Emerson, Lake & Palmer's song "Karn Evil 9." Viewable at:
http://www.youtube.com/watch?v=WUclxp7FxHI.

[28] Mohammed M. Hafez, "Jihad after Iraq: Lessons from the Arab Afghans," *Studies in Conflict & Terrorism* (Volume 32, Issue 2, 2009), pp. 73-94.

[29] Comment made during the "Disrupting the Foreign Fighter Flow" panel.

[30] Ibid.

[31] Comments made during the "Disrupting the Foreign Fighter Flow" panel. Barak Mendelsohn, for his part, offered five other salient questions that might be addressed as part of, or in addition to, the indications and warnings process: (1) how many foreign fighters are there?, (2) what are the foreign fighters arenas other than Iraq and Afghanistan?, (3) how are they divided between different jihad arenas?, (4) is there a central mechanism that helps disperse jihadis amongst arenas or is it a matter of opportunity?, and (5) what are the main roles of the foreign fighters? Ibid.

[32] Ibid.

U.S. Central Command area of responsibility. That task force model needs to be copied and applied elsewhere and given an international role. In other words, "[w]e need to modify our organization bureaucratically to meet the threat and not necessarily try to force the threat into our bureaucratic model," argued Mackey.[33]

From a different—but largely complementary—angle, Dan Green, a former Provincial Reconstruction Team member in Afghanistan and Naval Reservist tribal engagement officer in Iraq, has suggested the need to build U.S. personnel capacity. Michael Doran, a Middle East scholar and former National Security Council, Department of Defense, and Department of State official, has argued that the United States must build a political warfare capability. To Green, building personnel capacity is essential in developing bases of knowledge, expertise, familiarity, and the relationships needed to operate in the locales where foreign fighters originate, transit, and fight. Unfortunately, bureaucratic structures impede such deep specialization and inhibit precisely the development of the skills required for the political warfare capabilities suggested by Doran. According to Doran, we have some great programs in place, but that they are all ad hoc. What is needed is: (1) greater flexibility in moving between war zones and non-war zones, (2) better local intelligence and the ability to put the right answer (often non-military) on target, (3) better understanding of cultural contexts, (4) legislative relief to create constructive linkages between things like intelligence collection and development assistance under a new organization, and (5) increasing relationship linkages by developing educational institutions such as the George C. Marshall European Center for Security Studies—but from a "whole of government" perspective—for Africa and Central Commands.[34] Such capabilities—when combined with those offered by Mackey and Mendelsohn—would offer robust, yet scalable measures for dealing with issues across and within the four foreign fighter phases.

CONCLUSION

Today the United States focuses largely on what to do in Afghanistan and in neighboring Pakistan. Still, some reports suggest that the drone strikes against Al Qaeda in Pakistan have produced an outflow of foreign fighters to Yemen and Somalia.[35] Meanwhile the situation in Iraq remains improved from the dark days of 2004-2007, yet still tenuous. But there are other reports claiming that Al Qaeda has reinforced their leadership to refocus and direct the fight in Iraq by sending Sheikh Issa al-Masri to Syria.[36] Strategically, these developments lumped together suggest three things: (1) the foreign fighter problem and the "Al Qaeda movement," however defined, are not going away, (2) such fighters are intent on keeping the United States widely engaged across theaters of operations, and (3) the movement to Yemen and Somalia, aside from their geopolitical dead space benefits, are in close striking distance of the heart of the Arabian peninsula and Egypt.

Financial reality and limited diplomatic, development, and defense capabilities already stretched thin by eight years of war suggest further difficulties in dealing with foreign fighters. Realistically this means that the United States must leverage its friendships and acquaintances to work by, with, and through others and employ indirect strategy. As the late French Army General Andre Beaufre stated in his magisterial *An Introduction to Strategy*

> Though its outward manifestations are of a specialized and frequently disconcerting nature, indirect strategy is no specialized form of strategy divorced from direct strategy. The key to it, as with all strategy, is freedom of action; it is only the method by which this freedom is obtained which is different. It must be obtained by initiative combined with security and it is different because the area of freedom of action (and therefore the limits of security) depends upon what is done outside, not inside, the area at issue. This is its special feature and it is this which gives it its indirect character.[37]

In other words, while foreign fighters are by no means chiefly responsible for all of the problems in places such as Iraq, Afghanistan, or Pakistan, working against them successfully will help to reduce violence in the war zones. Combined with effective actions on the ground, an indirect strategy that husbands and appropriately distributes resources across borders to limit recruitment, transit, and logistics for these international killers is essential to success.

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[33] Comment made during the "Disrupting the Foreign Fighter Flow" panel.

[34] Ibid.

[35] See, for example, Jeremy Page and Rehmat Mehsud, "Pakistan Army Closes In On Taleban Leader Baitullah Mehsud," *London Times*, June 20, 2009.

[36] Bill Roggio, "Senior al Qaeda leader leaves Pakistan, directs Iraq operations from Syria," *Long War Journal*, August 21, 2009. Available at: http://www.longwarjournal.org/archives/2009/08/senior_al_qaeda_lead_5.php.

[37] General D'Armee Andre Beaufre, trans. by Major-General R.H. Barry CB CBE, *An Introduction to Strategy* (London: Faber and Faber, 1965), p. 128.

The Costs of Respecting Sovereignty

by Jakub Grygiel

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The war in Iraq has drawn criticism on many levels and from many sides. One source of criticism is the argument that this war has violated the sovereignty of a state, Iraq, in an illegitimate way, thereby weakening not only U.S. authority but also the principle of sovereignty, seen as a cornerstone of international stability. As a preventive war, and consequently as a war of choice rather than necessity, U.S. intervention in Iraq failed to meet the strict standards of a war waged in self-defense. The threat from Iraq, the argument goes, was doubtful and not imminent, and did not justify the clear violation of sovereignty perpetuated by the U.S. and its coalition. Furthermore, the absence of wide international support for the Iraq invasion (combined with the vocal opposition of some key powers) has augmented the perception of the illegitimacy of the 2003 U.S. attack.

Such criticism, voiced by some current administration officials, is leading to a renewed appreciation for the principle of state sovereignty. In fact, restoring a respect for state sovereignty may well be the cornerstone of international stability, as well as U.S. foreign policy. In a July 2009 speech in Moscow, President Obama argued this case, saying that

> State sovereignty must be a cornerstone of international order. Just as all states should have the right to choose their leaders, states must have the right to borders that are secure, and to their own foreign policies. That is true for Russia, just as it is true for the United States. Any system that cedes those rights will lead to anarchy.[1]

State sovereignty is certainly worth defending in practice and as a principle. Violations of state sovereignty should not be taken lightly because the integrity of states imparts a modicum of order to an already violent international system. Sovereignty may not always be just or legitimate, and ultimately it is still subject to that timeless law of power, so clearly enunciated by the Athenians in their fifth century dialogue with the beleaguered Melians: the weak, after all, will continue to have their sovereignty at the mercy of the powerful. But a world without state sovereignty – or a world without states – is likely to be considerably more violent that one with them. It may not be perfect, but there is no clear alternative to it.

Furthermore, the principle of sovereignty – defined in the simplest way as the right of states to be the supreme authorities in their domestic and external affairs, and therefore to have the right to their territorial integrity – is still a reference point to many, especially to weaker polities (e.g., Ukraine or Georgia) who are neighbors of expansionary states. President Obama's speech could also be read under this light, as a call to respect the wishes and freedom of small states, especially in the post-Soviet space. Sovereignty, finally, is also a way of judging the actions of

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[1] Online at http://www.america.gov/st/texttrans-english/2009/July/20090707062839abretnuh3.549922e-02.html

stronger states, whose superior power often makes the principle of sovereignty expendable. By placing the right to sovereignty above the whims of powerful states, the international system has a built-in constraint on power and a metric to evaluate state behavior. Any violation of sovereignty weakens these fragile rules, making international relations less manageable. The costs of not respecting sovereignty are, therefore, clear.

Having said this, it is also important to look at the costs of an overly respectful or deferential attitude toward state sovereignty. A foreign policy based on a strict respect of other states' sovereignty – and of violating theirs only in a clear response to a violation of ours -- comes with several unambiguous costs and even dangers. Specifically, three broad categories of costs affect a state's security, legitimacy, and efficacy. These costs are mutually reinforcing and result in the weakening of a state's ability to purse a foreign policy that maximizes its security.

The following examination of such costs should not be construed as an invitation for wanton breaches of state sovereignty. It is simply a presentation of what a foreign policy based on an absolute respect for sovereignty would entail. The underlying premise is that the use of power, an inherent feature of any foreign policy, is morally ambiguous and always entails trade offs. In this specific case, the trade off is between validating the principle of sovereignty and undermining one's own security, legitimacy, and efficiency.   Both actions, those weakening and those strengthening state sovereignty, can increase threats to a state. For instance, if sovereignty stops being perceived as a value to be respected, there is a higher likelihood that international relations will become unmoored and more violent. But reverence for the principle of sovereignty may also lead to an overly timid foreign policy, paralyzed by fears of destabilizing what is often called the Westphalian system. In the end, there are costs and benefits to any action, and the sign of a good leadership is to evaluate them and undertake the course of action that will minimize the dangers to a state. Prudential judgment must be exercised in respecting as well as violating sovereignty.

Before dwelling on the costs of respecting sovereignty, it is important to clarify what this concept means. In the simplest formulation, sovereignty is the idea of authority that each state is entitled to exercise over its territory. States are supposed to be independent from other polities and supreme within their own territory, regardless of their size, population, or power. Sovereignty is therefore conceptually distinct from power, which is measured in relative terms. That is, states have more or less power but are either sovereign (independent from foreign influences and supreme within its territory) or are not. Sovereignty is an either-or, absolute concept. A particular state may be more or less capable of enforcing and defending this authority, but respect for sovereignty is, at least in principle, not conditional on the perfect implementation of the external independence and internal supremacy of a state. A weak state deserves respect as much as a superpower.

Territorial sovereignty is an intrinsic part of this concept because in modern history the idea of such authority became tied to a clearly delimited piece of real estate. Borders are literally lines in the sand that circumscribe sovereign political entities and crossing them is perhaps the clearest sign of a violation of sovereignty. Often the term "sovereignty" refers simply to the territorial integrity of states, but it is much larger than that because the geographic contours are only one of the many features of states. In practice, what sovereignty entails is the right to be free from foreign interference in the internal workings of one's own state. State borders define the geographic area that is "off limits" to other states.[2]

The principle of sovereignty does allow for the possibility, even necessity, of violating the integrity of another state. However, the standards for when

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[2] For a good summary of the concept and its changing meaning and practice, see Robert Jackson, *Sovereignty* (Cambridge, UK: Polity Press, 2008).

sovereignty can be violated are very strict and traditionally are confined only to actions done in self-defense. This means that a state is justified to break the sovereignty of another when it has been attacked or is clearly about to be attacked. The right to immediate self-defense, that is, trumps the need to respect sovereignty. The farther one moves from clear, immediate self-defense, the more controversial the violation of state sovereignty becomes. A violation of sovereignty is an action that needs careful consideration, ought to be a rarity in international relations, and should be an action of last resort. Reality, however different from the ideal, ought to aspire to it, and the principle of sovereignty should serve as a constant guide.

Yet, as I argue, the principle of sovereignty and respect for it are not cost free. In what follows I describe three such costs that stem from too much reverence for sovereignty. First, states may need to violate the sovereignty of others in order to improve their security position, and not only in immediate (or even anticipatory) self-defense. Second, legitimacy, both domestic and international, is not grounded in the respect for the sovereignty principle but in the ability and willingness of the state to provide security to its own population and to defend a higher law. Third, foreign policy is by and large a series of constant attempts to alter the will, capabilities, and actions of the other states, and by its very nature engages in a spectrum of sovereignty violations.

Security

To put it succinctly, the absolute defense of the principle of sovereignty and the defense of one's state are mutually exclusive. One cannot argue for respecting the sovereignty principle at all times without undermining at the same time one's own safety. In other words, it is often necessary to violate this principle in order to protect one's own sovereignty. There is no contradiction in such a posture because the stakes of international relations are state survival, not the survival of the principle of sovereignty. States choose to defend their own sovereignty (a shorthand for their security and independence) even by infringing upon other states' sovereignty; they do not revere an abstract rule that can be only self-enforced.

Stating this tension between the value of the principle of sovereignty and the value of one's own sovereignty is, in and of itself, not terribly controversial. After all, as mentioned above, the right to self-defense is perhaps the clearest and most legitimate reason to violate the sovereignty of the attacking state, and it has been enshrined in Article 51 of the UN Charter. Yet, there are several constraints imposed on even this right. Article 51, for instance, states that self-defense is legitimate "until the Security Council has taken measures necessary to maintain international peace and security." Moreover, a state can act in self-defense, and thereby if necessary violate the sovereignty of the aggressor state, only if an actual armed attack has occurred. Once sovereignty has been violated, that is, the target state has the right to respond in kind. This means, for instance, that state support of armed groups of terrorists does not constitute an "armed attack" and therefore cannot justify a violation of that state's sovereignty. Furthermore, according to some legal experts, a preemptive attack is clearly unlawful because states do not have the right to attack "another state because of speculative concerns about that state's possible future actions."[3]

Yet, even without a clear attack, it may be necessary to break the sovereignty of another state. At this point, opinions on the legality of violating a state's sovereignty begin to diverge. On the one hand, some argue that Article 51 of the UN Charter is the accepted legal position for the legitimate use of force against

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[3] Mary Ellen O'Connell, "The Myth of Preemptive Self-Defense," American Society of International Law, Task Force on Terrorism Paper, August 2002, 21. Online at http://www.asil.org/taskforce/oconnell.pdf

another state, which is only when an armed attack has occurred or when the victim state is "morally certain that the armed attack is under way" or is in the final stages of being mounted.[4] Preemptive strikes against a state that is in the process of launching an attack are legitimate forms of self-defense wars. On the other hand, a more expansive interpretation of self-defense allows the use of force and the violation of state sovereignty in anticipation, broadly defined, of an attack. Such anticipatory self-defense, according to this view, is part of customary international law, which has never clearly prohibited such actions. As one legal scholar writes, "it would be difficult to conclude that there is an established rule of customary international law prohibiting the preemptive use of force when undertaken in anticipatory self-defense. If anything, there seems to have been greater support for the doctrine" in the case of Israel's "Operation Opera" against Iraq's Osirak nuclear reactor in 1981.[5]

The lack of legal clarity concerning when self-defense is acceptable may matter in some international discussions, but has never prevented states from acting when they – and only they – deem it necessary. Most states recognize that in order to protect their security they may need to act in (often very early) anticipation of an attack and without any international approval. States are, after all, the ultimate arbiters of their own security, and it is up to them to decide when and how to act in self-defense. Indeed, there is no consensus even on what "aggression" means; it is up to individual states to determine what constitutes a threat to their national security.[6] It is not surprising therefore that support for preventive war – that is, for clear violations of state sovereignty done well in advance and perhaps even with a very generic expectation or fear of an attack – is gaining strength. The 2002 National Security Strategy formulated by George W. Bush clearly stated that the United States will break state sovereignty when it considers it necessary to protect its citizens and its security.[7] Despite vocal opposition by many in the United States and abroad, the idea that security concerns permitted states to intervene in the affairs of other states through a variety of means, including war, and without even a clear expectation or intelligence of a potential attack, gained support. As two analysts write, a "sizeable number [of states] seem to agree that the risk of calamitous surprise attacks, especially with chemical, biological or nuclear weapons, might well justify preventive strikes against terrorists or preventive wars against their state sponsors."[8] Indeed, the novelty and radicalism of supporting preventive war has

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[4] Yoram Dinstein, *War, Aggression, and Self-Defence* (New York, NY: Cambridge University Press, 2005), p. 187.

[5] Anthony Clark Arend, "International Law and the Preemptive Use of Military Force," *Washington Quarterly,* Vol. 26, No. 2 (Spring 2003), p. 96.

[6] Michael J. Glennon, "The Fog of Law: Self-Defense, Inherence, and Incoherence in Article 51 of the United Nations Charter," *Harvard Journal of Law and Public Policy*, Vol. 25, No. 2, p. 556.

[7] The White House, *The National Security Strategy of the United States of America*, Washingto, DC, September 2002. Available online at http://georgewbush-whitehouse.archives.gov/nsc/nss/2002/

[8] Peter Dombrowski and Rodger A. Payne, "The Emerging Consensus for Preventive War," *Survival*, Vol. 48, No. 2 (Summer 2006), p. 115. See also Colin S. Gray, "The Implications of Preemptive and Preventive War Doctrines: A Reconsideration," Strategic Studies Institute, U.S. Army War College, Carlisle Barracks, July 2007.

been greatly exaggerated, and the U.S. has a long history of acknowledging the need to conduct an interventionist foreign policy which includes preventive attacks.[9]

Respecting sovereignty at all costs and in all cases also undermines national security because it deprives a state of a key tool of foreign policy, namely the ability to threaten other states. Sovereignty, and the value states attach to it, is useful exactly because it can be violated. The threat of breaking another state's sovereignty is a powerful tool in the hands of states, and can serve to coerce the enemy to alter its behavior. The credibility of that threat is affected not only by the ability of the state to carry it out, but also by its willingness to violate another state's sovereignty. The less willing a state is to break the sovereignty of another state, the less credible the threat – and paradoxically, the more vulnerable a state becomes. A state's credibility diminishes and with it, leverage. If a state cannot coerce another state to change its behavior, force becomes the only option. In brief, a principled defense of sovereignty may undermine a state's ability to defend its security and ultimately may lead to greater violence and more acts of intervention.

A sign of the importance of this idea of sovereignty as a source of strategic leverage is the difficulty the United States faces from non-state actors. When encountering actors who do not value sovereignty, officials are often at a loss on how to deal with them because the state lacks a key arrow in the foreign policy quiver, namely the ability to violate sovereignty, to weaken it, to break it, and in extreme cases, to deprive the enemy of it. This is the case with the US conflict with al Qaeda and its cells that function outside, or under the cover, of the system of state sovereignty. The best approximation that the United States can achieve is to threaten states who are in some way responsible of abetting or sheltering these groups. By doing so, the United States is again using sovereignty as leverage, as something that those states presumably value and that the United States can, and if necessary will, break. While such a strategy has certainly a positive impact because it limits state support for al Qaeda, it does not fully resolve the challenge of dealing with groups that do not have sovereignty and for whom sovereignty is merely a potential cover. In brief, it is preferable to have enemies who consider sovereignty of great value, because they will likely respond to threats to that sovereignty.

To conclude, the first cost of respecting the principle of sovereignty at all times is a loss of our security. If sovereignty is an inviolable principle, and should always be respected, states lose the ability to protect themselves.

Legitimacy

The second cost of an overly deferential attitude toward sovereignty is a loss of legitimacy, both internationally and domestically. Legitimacy, understood as adherence or at least the perception of adherence to law, is murky from an international perspective because it is unclear what law – UN Charter, customary law, or natural law – should be followed. Domestically, on a very basic level, it is very clear that legitimacy is attained by providing security to one's own citizens. In both cases, absolute respect for state sovereignty will not bring legitimacy.

International legitimacy. It is not surprising that often the staunchest defenders of sovereignty are tyrannical and authoritarian regimes that use this principle as a fig leaf for their own internal depredations. Granting such regimes the right to remain undisturbed in the name of state sovereignty is an abdication of the duty to follow a higher law, one that elevates human life above the political independence of states. And that higher law is an aspiration for many people, who by birth or by the vagaries of political history happen to be at the mercy of oppressive governments, megalomaniacal tyrants, or violent ideologies. By refusing to accept the validity of

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[9] John Lewis Gaddis, *Surprise, Security, and the American Experience* (Cambridge, MA: Harvard University Press, 2004).

such a law and by giving preference to a blind respect for state sovereignty, states lose legitimacy in the eyes of those for whom sovereignty is a barrier to freedom.

For instance, the initially very muted support of the Obama administration for the popular protests following Iranian elections in the summer 2009 was carefully worded to avoid any impression that the United States was violating Iran's sovereignty. President Obama tried to walk a fine line between "condemning the violence" on the streets of Teheran while making clear that the U.S. "respects the sovereignty of the Islamic Republic of Iran and is not interfering with Iran's affairs."[10] Such a policy may be prudent at that particular moment in time. But it is important to recognize that there is an unsolvable tension between the desire to help oppressed people and the respect of that state's sovereignty. A position that values more the sovereignty of a state than the freedom of its people is likely to garner little international legitimacy. It may be applauded by other governments but the popularity gathered from the rulers also brings disappointment and disdain from the ruled.

The idea that international legitimacy is based on respecting sovereignty must therefore be qualified. Sovereignty does imply that the state has the supreme and ultimate authority over its territory and its actions, but this authority cannot be untrammeled. In foreign policy, the respect for the sovereignty of a state is contingent on its behavior. If a state attacks another one, its sovereignty is no longer worthy of respect. Analogously, respect of the sovereignty of a state should be contingent on the internal behavior of that state. If the state mistreats its own citizens, it divests itself of the right to be left alone in internal politics. Another way to put this is that sovereignty ought to be respected when it is legitimate – and such legitimacy is a function of that state's behavior toward its neighbors as well as its own citizens. Thus, violating the sovereignty of another state, deemed to be illegitimate due to gross domestic abuses, is not an illegitimate action.

There is a growing acceptance of the idea that state sovereignty is conditional on good domestic behavior. In 2001, a group of lawyers and academics argued that "UN member states have a responsibility to protect the lives, liberty, and basic human rights of their citizens, and that if they fail or are unable to carry it out, the international community has a responsibility to step in."[11] This movement, called "responsibility to protect" (R2P), has been limited so far to stating a principle, which has been opposed by some UN members fearful of other states meddling in their internal politics.[12] While skepticism about the role of the "international community" or, more specifically, the UN as the arbiters of what is right and wrong is justified because UN decisions can lead to profoundly non-democratic outcomes,[13] the R2P movement points to an important cost of elevating state sovereignty to an inviolable principle – that of sacrificing the liberty and rights of many people. The legitimacy of intervening in another state to redress grave human

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[10] President Obama's press briefing, 23 June 2009, online at
http://www.nytimes.com/2009/06/23/us/politics/23text-obama.html

[11] Lee Feinstein and Anne-Marie Slaughter, "A Duty to prevent," *Foreign Affairs,* January/February 2004. p.. 137. See also http://www.responsibilitytoprotect.org/

[12] See Neil MacFarquhar, "When to Step In to Stop War Crimes Fissures," *New York Times*, 23 July 2009, online. Interestingly, the George W. Bush administration was supportive of this principle. See also Kristen Silverberg, "Does the UN Still Value the 'responsibility to protect'?", 23 July 2009, online at
http://shadow.foreignpolicy.com/posts/2009/07/23/does_the_un_still_value_the_responsibility_to_protect

[13] See, for instance, Amitai Etzioni, ""Sovereignty as Responsibility," *Orbis*, Winter 2006, pp. 71-85.

rights violations does not stem from the approval of the international community or the UN, but from the purpose of that intervention. Therefore, the action of a solitary great power defending the liberty or human rights of a group of people, even if that action violates unilaterally state sovereignty, is more legitimate than the collective inaction (and corresponding respect, even if only by default, of sovereignty).

There is certainly a trade-off between international stability and interventions in other states. But not every action meant to preserve international stability through respect for sovereignty is legitimate, just as not every action that breaks the sovereignty of another state is illegitimate. As Theodore Roosevelt wrote, "[t]here are big and powerful nations which habitually commit, either upon other nations or upon sections of their own people, wrongs so outrageous as to justify even the most peaceful persons in going to war." The costs of international stability therefore can often be enormous tragedies. "The worst infamies of modern times – such affairs as the massacres of the Armenians by the Turks, for instance – have been perpetrated in a time of nominally profound international peace, when there has been a concert of big Powers to prevent the breaking of this peace, although only by breaking it could the outrages be stopped."[14]

To put it in another way, absence of international support for a violation of state sovereignty does not lead *ipso facto* to lack of legitimacy. Conversely, widespread international support, say in the UN General Assembly, for an action is not *ipso facto* a sign of legitimacy. Some political leaders and scholars likely will disagree with such an understanding of international legitimacy. For instance, Dominique de Villepin, then French Foreign Minister, argued in 2003 that the UN is the necessary international institution "[b]ecause the United Nations is the place where international rules and legitimacy are founded. Because it speaks in the name of peoples,"[15] Villepin's paean to the UN is based on the idea that international legitimacy is grounded in clearly stated rules (presumably, in this case, resolutions of the Security Council or of the General Assembly) that have been formulated through a process of negotiations. According to one scholar, legitimacy is "that quality of a rule which derives from a perception on the part of those to whom it is addressed that it has come into being in accordance with right process."[16] This view, however, is not accepted by all, including those who in the days preceding the Iraq war in 2003 supported it. Western European states, for whom Villepin was speaking, went to war in Kosovo without UN approval and did not argue that their military action there was illegitimate. It may have been illegal from an international perspective, but it was certainly not illegitimate.

International legality does not always coincide neatly with international legitimacy and with respect for a higher law. Legitimacy and legal documents are two different things, and respecting the process through which international decisions should be made is not sufficient to elevate them to legitimacy. Legitimacy must reflect a higher law, a law not "in the sense of enactment or legislation, but in the Ciceronian sense of 'right reason in agreement with nature: of universal application, unchanging and everlasting' – what our own Richard Hooker called 'the

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[14] Theodore Roosevelt, *An Autobiography* (New York, NY: The Macmillan Company, 1916), pp, 548, 549.

[15] Address by Minister Dominique de Villepin, French Minister of Foreign Affairs to the UN Security Council, 19 March 2003, online at
http://www.un.int/france/documents_anglais/030319_cs_villepin_irak.htm

[16] Thomas M. Franck, "Legitimacy in the International System," *The American Journal of International Law*, October 1988, p. 706.

law which human nature knoweth itself in reason universally bound thereto.'"[17] A legitimate action is, therefore, one that reflects this higher law, giving precedence, for instance, to human rights over state sovereignty. The French philosopher, Jacques Maritain put it succinctly: "An unjust law, even if it expresses the will of the people, is not law."[18] By extension, international support and popularity are not by themselves signs of the legitimacy and justice of an action.

This is not to mean that international legitimacy does not exist. It does, but not necessarily in a staunch support of state sovereignty. As Robert Kagan writes, "legitimacy is a genuinely elusive and malleable concept. Discovering where legitimacy lies at any given moment in history is an art, not a science reducible to the reading of international legal documents."[19]

Domestic legitimacy. The second cost of respecting state sovereignty at all times is domestic. The legitimacy of a government is based not on its protection of Westphalian norms, but, among others, on its ability and willingness to defend national security, and this may involve the need to break state sovereignty (as in the case of a preventive war). A state that cannot or does not want to protect its own citizens from foreign threats loses its domestic legitimacy. In the case of the United States, as Jeremy Rabkin writes, the "President has a sworn duty not to 'law' in the abstract, much less to universal principles or 'archetypes,' but to 'preserve, protect and defend the Constitution of the United States,' that is, the particular constitutional structure of the particular nation so constituted."[20]

The only sovereignty that matters to a state is its own. The *raison d'être* of a state is its own sovereignty, that is, its independence from foreign, and supranational, powers. That is why the modern trend toward the establishment of supranational institutions that claim authority over sovereign states is problematic. It undermines the legitimacy of states and moves the locus of decision-making to a higher, less accountable level. Such a trend is undoubtedly supported by some states, especially those that have become skeptical of the value of their own sovereignty (especially Western European states that are at the forefront of the European political project), but is also equally opposed by others, such as the United States and many of the newly independent states of the former Soviet sphere. The United States, after all, came into existence expressly to achieve and maintain independence from foreign intervention, and this "constitutional culture" makes it difficult to accept a limitation of that freedom and autonomy.[21]

Furthermore, to defend and sustain its own sovereignty, a state has to be willing and capable of violating the sovereignty of others. The moment a state elevates the *principle* of sovereignty above *its own particular* sovereignty, it undermines

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[17] Cyril E. Hudson, "The Church and International Affairs," *International Affairs*, Vol. 23, No. 1, January 1947, p. 2.

[18] Jacques Maritain, "The Concept of Sovereignty," *American Political Science Review*, Vol. 44, No. 2 (June 1950), p. 354. The French philosopher argued even further that sovereignty, understood as supreme power that is unaccountable, is inherently problematic because it violates the right of men to self-government. Moreover, such a concept also assumes that a politically sovereign entity is its own lawgiver and lacks accountability to a higher law. As he concludes his article, the "two concepts of Sovereignty and Absolutism have been forged together on the same anvil. They must be scrapped together." Maritain, p. 357.

[19] Robert Kagan, "America's Crisis of Legitimacy," *Foreign Affairs*, Vol. 83, No. 2 (March-April 2004), p. 77.

[20] Jeremy Rabkin, "American Self-Defense Shouldn't Be Too Distracted by International Law," *Harvard Journal of Law & Public Policy*, Vol.30, No. 1, 49.

[21] See Jeremy Rabkin, *Law without Nations?* (Princeton, NJ: Princeton University Press, 2005), chapter 9, pp. 233-270.

the very rationale for its existence by depriving itself of key foreign policy tools. In some ways, there is an inherent paradox in the idea of state sovereignty. A state has external autonomy, that is, it is its own law and the international community has no right to infringe upon it, unless the state acquiesces voluntarily. But a state has the right and duty to protect itself, and in the process of doing so it may have to break the sovereignty of others. Its legitimacy derives therefore not from the international community, but from its own people to whom the state is bound and to whom it must provide security.

Finally, the legitimacy of states often arises from ideas and principles that transcend the peculiar historical situation of that polity. For instance, the United States has been founded on "self-evident truths," among which are the unalienable rights of life, liberty, and the pursuit of happiness. These truths are not limited to the thirteen colonies, or to the fifty states, but are universal. U.S. legitimacy is based on upholding these truths first and foremost, not an abstract principle of state sovereignty. Of course, this does not mean that the United States must intervene everywhere and all the time to protect these truths; politics requires prudential judgment. The *fiat iustitia, pereat mundus* (let there be justice, though the world perish) exhortation cannot be applied to the foreign policy of a state. But from this limitation of politics does not follow the idea that the legitimacy of a state in general and of the United States in particular, stems from an international status quo (of which state sovereignty is an important facet). There can certainly be a debate about the limits of U.S. power, the prudence of a particular intervention, or the applicability of universal principles, but a foreign policy based on an absolute defense of the state sovereignty principle will incur costs, in this case the loss of some domestic legitimacy.

Effectiveness

The third set of costs incurred while pursuing a foreign policy based on absolute respect for state sovereignty is ineffectiveness. All foreign policy, especially that of a great power, represents some sort of violation of the target states' sovereignty. The objective of foreign policy is, after all, to alter the behavior of other states, molding it into a course that is more advantageous to us. Foreign policy involves a whole spectrum of actions, from negotiations to threats, sanctions, and use of force, and all of them limit, constrain, and alter a state's freedom of action. As Stephen Krasner points out, sovereignty can be violated in four ways: conventions (when states agree to certain norms or behaviors), contracts (when states agree to a specific behavior in exchange for some benefit from the other side), coercion (when states are forced to do something against their will), imposition (the most extreme, yet more common than coercion, way of violating sovereignty which occurs when the state has no power to resist). The first two are voluntary and occur when for a variety of reasons a state realizes it is better off abandoning freedom of action in a specific area. The latter two examples constitute a coercive violation of the target state's sovereignty, resulting from an asymmetry of power between the two political actors. In either case, it is clear that defense of the sovereignty principle is not the overarching foreign policy objective and, in fact, may be a hindrance to a state's ability to conduct an effective and desirable foreign policy. As Krasner writes, "If rulers want to stay in power and to promote the security, material, and ideational interests of their constituents, following the conventional practices of Westphalian and international legal sovereignty might or might not be an optimal policy."[22]

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[22] Stephen Krasner, *Sovereignty: Organized Hypocrisy* (Princeton, NJ: Princeton University Press, 1999), p. 24.

Voluntary limitations on sovereignty are less problematic because they presumably enhance international stability and welfare. For instance, conventions regulating relations between the government and various minorities within a state are beneficial to the maintenance of order as well as human rights. Similarly, the abandonment of a national currency in favor of a regional one (e.g., the Euro) has increased the market as well as the financial stability of the participating states. Even in such "voluntary" cases the abdication of an aspect of one's own sovereignty can create political challenges, especially domestically. Such abdications of sovereignty, while beneficial on some level (e.g., increasing protection of minority groups, or expanding the size of the market), may also lead domestically to a weaker state and ultimately a less effective implementation of law. In fact, in most cases, the agreed convention or the supranational institution have limited enforcement capabilities and therefore depend on the willingness of the individual state to abide by them.

The other, more forceful, limitations of sovereignty are, however, more germane for the argument here. These violations of sovereignty, through coercion or imposition, are part and parcel of foreign policy, especially of great powers, including the United States. They represent interferences in other states, ranging from altering the foreign policy of the target state to changing its domestic political regime. Such interventions can certainly be unjust, illegitimate, and destabilizing. Russia's small war in Georgia in August 2008 is a perfect example of a military intervention that had no justification (Georgia posed no security threat to Russia, and alleged violations of human rights of Russian minorities were at best overblown) and risked a larger conflagration in the region. Yet, to oppose such individual interventions does not necessarily lead to support for state sovereignty at all times and at all costs. To preclude any interference in another state is to limit the effectiveness of a state's foreign policy. For the United States, this would weaken our ability to defend ourselves and our allies, to advance our ideals, and to use our power advantage to our benefit.

Terrorism especially exacerbates the trade off between sovereignty and security. Terrorist groups such as Al-Qaeda often use state sovereignty as an umbrella under which to hide, regroup, and reorganize. If the United States or any other state, wants to degrade the lethality of these groups, it has to be willing and able to interfere within the jurisdiction of other states, undermining sovereignty in the process. In the case of state-sponsored groups it is relatively easier to violate the sovereignty of the sponsoring state, which, after all, is using the terrorist organization to project power and attack another state. A violation of its sovereignty is clearly within the parameters of self-defense. For instance, Israel would be certainly justified to attack Iran and Syria, if Hezbollah, aided and encouraged by these two states, engages in another war (whether such an attack is feasible and desirable from a military and political perspective is a different issue).

But even when a terrorist group is simply hiding within a state, using it as a cover or as a source of recruits and finances, sovereignty should not be an impediment to intervention. To avoid dealing with such groups, or to pass the responsibility of dealing with them to the host state, simply because of the claim that sovereignty ought to be respected, is an abdication of political duties. Moreover, to criticize an intervention within a state that has terrorist cells and therefore to argue, for instance, that the United States should refrain from breaking that state's sovereignty erects undue constraints on foreign policy. In a world of non-state threats, absolute respect for sovereignty undermines state security. When threats arise from within states, violating their sovereignty is a necessity. Obviously there is a spectrum of violations, ranging from military invasion to precision strikes or to cover operations, but all of these constitute a clear violation of sovereignty. Some

may be more militarily feasible and political palatable than others, but none would be possible if sovereignty trumped effective foreign policy.

Furthermore, it may be imperative to engage in a policy aimed at changing the domestic regime of another state. As mentioned earlier, respect for sovereignty can be an effective tool to manage relations between states, drawing boundaries of acceptable behavior. But it works most effectively when states share something in common, for instance belief in dynastic legitimacy (as during the 1815 Congress of Vienna) or deference for democratic authority. In such cases, states respect each other's sovereignty because they perceive each other as legitimate. In the moment that states look at each other with mistrust and animosity because of fundamental differences in domestic regimes (e.g., Soviet Union vs the U.S., or democracies vs. autocracies), respect for sovereignty becomes more fragile. Not only does humanitarianism fuel a desire to interfere in the domestic affairs of states considered illegitimate and in the wrong, but there is also a need to do so for security reasons. The threat of an autocratic regime, for instance, may be not only in its relative power (which may or may not be greater than ours), but also in its very nature, which, as Kant observed, makes the decision to go to war easy. The ruler is the "owner of the state, and does not lose a whit by the war, while he goes on enjoying the delights of his table or sport, or of his pleasure palaces and gala days. He can therefore decide on war for the most trifling reasons, as if it were a king of pleasure party."[23] To foreswear interventions in the domestic affairs of a state, ranging from support of dissident groups to invasion, seriously undermines the ability to conduct foreign policy in pursuit of limiting threats and establishing a more benign strategic environment.

Thus, if the goal is to alleviate security challenges by changing the nature of states, sovereignty becomes a constraint. A foreign policy based on absolute respect for sovereignty, including that of autocracies, is an ineffective tool to deal with the threat arising from such regimes. By respecting the sovereignty of autocracies, states need to rely exclusively on differentials of power, and ultimately on purely defensive measures. In other words, an autocratic threat needs to constitute an immediate danger, or even a direct attack, before a state may answer. Being proactive requires interfering in the internal affairs of that regime, in the attempt to destabilize it and perhaps even change it. Democracy promotion can be seen, from this perspective, as a form of national security strategy because the creation of domestic regimes based on popular sovereignty and respect for human rights, separation of power, and transparency of its political processes, diminishes the number, and therefore, the overall threat of despotic regimes. Policies that promote democracy abroad are, however, violations of sovereignty – violations that, to be sure, can be on a wide spectrum ranging from financial backing of radio broadcasting (e.g., Radio Free Europe/Radio Liberty during the Cold War) and of groups within the autocratic state to more forceful, even military interventions. They are all violations nonetheless. Even taking a stand on the legitimacy of the leadership of a country is a form of denying sovereignty because it passes judgment on a political entity that is independent and is a law on its own. In brief, to defer to sovereignty means abandoning democracy promotion or withholding moral judgment.

The final, but perhaps the most important, cost in foreign policy efficiency is loss of the advantage in power. This is particularly true for great powers, including the United States, because of their greatness. The principle of state sovereignty is, in fact, the great equalizer: accordingly, states are all equal and power asymmetries ought not to matter. In a world where sovereignty would be perfectly respected, states would defer to each other as equal, independent entities regardless of their relative power. It is not by chance that the weakest states are often the most vocal

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[23] Kant, Perpetual Peace, A Philosophical Essay, (1795; Old Chelsea Station, New York: Cosimo, Inc., 2005), p. 9.

defenders of the principle of sovereignty. The ideal of a world organized according to the principle of sovereignty—and a principle perfectly respected—is undoubtedly appealing because it would make war a rarity (albeit, as developed in a previous point, it would also make people subject to the whims of their despots without the hope of external help). Yet, because we do not live in such, those who function according to the sovereignty principle are disadvantaged. Assume, for example, that the United States decides to abide by the rules of sovereignty and to refrain from interfering in the internal affairs of any other state. By doing so, the United States puts itself on the same level as the weakest state in the world. It becomes, by choice, an equal to, say, Burma or Venezuela, which, by the fact of their relative power, have very limited means to interfere in our internal affairs. Reverence for sovereignty can thus lead to a blunting of our advantage in power.

Conclusion

By presenting the costs of absolutely respecting sovereignty I am not arguing in favor of abandoning completely the idea of state sovereignty. On the contrary, violating state sovereignty should not be taken lightly because states, regardless of their size, are a source of stability and accountability in international relations. But the benefits of respecting state sovereignty should also not be overstated. Basing one's own foreign policy on reverence for sovereignty is not always morally desirable, politically legitimate, and strategically sound. The principle of sovereignty and the defense of a particular state's sovereignty are in many instances mutually exclusive; to protect a state's security and sovereignty it must often violate that of other states. Sovereignty, as well as security and legitimacy, cannot be sacrificed in defense of the abstract principle of sovereignty.

Prudential judgment must dictate both when to violate or when to respect state sovereignty. In either case, the principle of sovereignty should not be the guiding idea of U.S. foreign policy, the metric according to which analysts and diplomats judge the necessity and legitimacy of U.S. actions. What matters is not an abstract rule of the international system – a rule that is also historically contingent and from the perspective of *la longue durée* relatively young – but the survival and security of the United States with its values. These trump the principle of sovereignty.